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THE

PARISH WILL CASE

Before the Surrogate of the City of New York.

MEDICAL OPINIONS,

UPON

THE MENTAL COMPETENCY OF MR. PARISH,

BY

JOHN WATSON, M. D. PLINY EARLE, M. D.

D. T. BROWN, M. D. LUTHER V. BELL, M.D., LL.D.

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CONTENTS.

	PAGE
Opinion of Dr. Watson, ...	9
Dr. Brown, ...	353
Dr. Ranney, ...	393
Dr. Earle, ...	409
Dr. Bell, ...	459
Dr. Ray, ...	527
Sir Henry Holland, M.D., . .	567

THE

PARISH WILL CASE

Critically Examined

IN REFERENCE TO THE

MENTAL COMPETENCY OF MR. HENRY PARISH TO EXECUTE THE CODICILS APPENDED TO HIS WILL;

BY

JOHN WATSON, M. D.,

SURGEON TO THE NEW YORK HOSPITAL.

INTRODUCTORY OBSERVATIONS.

The discussions involved in the following Inquiry, may, for the sake of orderly consideration, be divided into three parts. Of these, the first relates to Mr. Parish's Ailments and Disabilities, and to the circumstances attending them; the second relates to the execution of the Original Will, and of the Three Codicils thereunto appended; and the third, to the question of Mr. Parish's Competency for executing these Codicils.

In part first, I have examined with as much thoroughness, accuracy, and candor as I could command, every important fact and circumstance bearing upon the bodily and mental condition of Mr. Parish, as well during the period in which his disease was not yet so severe as to disable him from active life, as after the attack of July, 1849.

In part second, I have, in like manner, examined every fact of moment connected with the making of his Original Will, while yet in the enjoyment of his

mental and physical powers; and with the making of the Codicils, subsequent to July, 1849. And

In part third, I have discussed the question of his Mental Capacity to execute these Codicils.

For the facts of the case I have, throughout, relied exclusively upon the evidence taken before the Surrogate; referring directly to the folios in the printed evidence for every statement I have had occasion to borrow; and, in part third, referring, for the opinions advanced, to the most reliable medical and medico-legal authorities.

TABLE OF CONTENTS.

PAGE

Introductory Observations 3

PART FIRST.

MR. PARISH'S AILMENTS AND DISABILITIES, AND THE CIRCUMSTANCES ATTENDING THEM.

Section

1. A brief statement of the case now before the Surrogate 9
2. Ailments prior to July, 1849 10
3. Character and Habits while in Health 13
4. Attack in July, 1849, and its immediate consequences—Apoplexy, Hemiplegia, and Loss of Speech 16
5. Attack in October, 1849 20
6. Later Ailments 22
7. Disorder of the Eyes 25
8. Natural Evacuations 27
9. Periodical Convulsions 29
10. Change of Temper and Disposition 35
11. Sounds and Gesticulations used in substitution for the Speech 40
12. Senses of Hearing, Feeling and Smell 58
13. Capacity to Read and Write 60
14. Power of Attending to and Understanding what was read to him by other persons 77
15. Helplessness and Need of Constant Supervision 80
16. His Wishes not easily Ascertained 89
17. Vacillation and Forgetfulness 107
18. Force and Habit—old Haunts, Occupations and Recollections 111
19. Business and Household Transactions, Small degree of Discernment in the Management of his own Affairs 115
20. Summary of Opinions concerning Mr. Parish's Capacity 159

PART SECOND.

MR. PARISH'S WILL, AND THE THREE CODICILS CONSIDERED.

21. The Making of the Original Will, and the reasons assigned for the Disposal of Property therein effected 168
22. Mr. Parish, after July, 1849, under the Influence and Subject to the Guidance of those immediately surrounding him 175

Section. PAGE

23. His Power of Attorney refused by Mr. Kernochan and exercised by Mrs. Parish....183
24. The Making of the First Codicil....184
25. The Re-execution of the First Codicil....188
26. Mr. Parish's Condition at the time of the Re-execution of the First Codicil....190
27. Mr. Parish refuses to Cancel the Original Will....193
28. The Making of the Second Codicil....194
    Mr. Lord instructs Mrs. Parish respecting her defective title to certain alleged Gifts, and to her investments in her own name.195
    Numerous Conferences and Complicated Transactions....196
    The Detection (not by Mr. Parish) of the $95,510 Discrepancy....202
    Revocation of the Executorship of Mr. Daniel Parish, by Mr. Lord.205
    Revocation of the $10,000 Legacy to Daniel Parish, also by Mr. Lord....206
    The Alabama Stocks devoted to Charities, not all thus used....297
29. Comment upon these transactions, and Mr. Parish's Condition at the Making of the Second Codicil....212
30. The Making of the Third Codicil....214
    The Residuary Clause altered in Mrs. Parish's favor....214
    Gifts to Brother's Children at Mr. Lord's suggestion, not revoked..215
31. Mr. Parish's Condition at the Making of the Third Codicil....217

PART THIRD.

THE QUESTION AS TO MR. PARISH'S COMPETENCY FOR EXECUTING THE CODICILS.

32. The Question of Competency propounded....219
33. Theory of Mr. Parish's case....219
    a. Authorities in support of this....220
    b. Anatomical Features of the case, deducible from the symptoms...220
    c. Organic Disease of the Brain, as affecting the Intellect....222
34. Summary View of the Organization and Functions of the Nervous System....222
35. Review of the Medical Evidence in reference to the Disease of the Brain and its effect upon the Intellect....245
    a. Organic disease of the Brain, admitted....245
    b. Its relation to the condition of the mind not fully acknowledged by the witnesses....245
    c. No Post-Mortem examination....246
    d. Convulsions from Disease of the Brain....247
    e. Dr. Markoe's Theory of Aphonia or Loss of Speech....248
    f. Dr. Markoe's Theory of Epilepsy and Epileptiform Convulsions. What is Epilepsy?....249
    g. Dr. Delafield's Theory of Apoplectic Changes in the structure of the Brain....253
    h. Dr. Delafield denies the need of a Post-Mortem examination and his Reasons for this opinion....256
    i. The Reasons not satisfactory even in cases of temporary mental Aberration....258
    k. Dr. Delafield on the Loss of Speech....259

Section PAGE

l. The Proper exposition on this point of the Case.....260
m. Amaurosis in its relation to Disease of the Brain.....262
n. Dr. Delafield's experience in the Healthy and Morbid Anatomy of the Brain in its relation to the Condition of the Mental Faculties.....263
o. Sir Henry Holland's Remark on the effect of disease in Both Hemispheres of the Brain, simultaneously; confirmed by Dr. Carpenter, and Dr. Wigan.....266
p. Dr. Delafield gives no case in support of his Opinion.....268
q. The Countenance as an exponent of Intellectual Capacity.....270
r. The Taking of the Sacrament.....273
s. Theory of the Medical Witnesses in reference to the Failure to write as well as to speak. Was he unwilling?.....274
t. No Tests Instituted for Determining the Force of Intellect in Mr. Parish by any of the Professional Witnesses.....278
36. Review of an Article entitled, To what degree are the Intellectual Faculties affected in Cases of Apoplexy and Hemiplegia?.....283
37. Instances of Disease of the Brain without Abolition of the Intellect anatomically explained.....311
38. Esquirol and Cruveilhier on the connection between Idiocy and Disease of the brain.....314
39. Apoplexy in its Statistical Relations to insanity.....316
40. Loss of Speech in its relation to Apoplexy.....317
41. Loss of Speech as connected with Disorder of the Mental Faculties.318
The varieties of Loss of Speech and Aphonia, illustrated in relation Mr. Parish's Case.....319
42. Hemiplegia, in its Statistical Relations to Insanity.....326
43. Epilepsy in its Statistical Relations to Insanity.....327
44. Mr. Parish could not use, and could not be taught the use of artificial Signs for the Expression of Thought. Inferences from this in reference to his Mental Faculties.....329
45. Conclusions in reference to Mr. Parish's intellectual Powers.....334
46. Summary View of the Facts and Principles of Anatomy and Pathology bearing on the case.....336
47. External Influences affecting Testamentary Capacity.....344
48. General Conclusion.....348

.CORRIGENDA.

On page 168, the heading is for the whole of Part Second, and should not have been numbered among the sections. For the proper heading of Section 21, see table of contents.

On page 214, 215, the headings of two subdivisions of section 30 have been omitted.

On page 217, the heading marked No. 30 should be No. 31.

On page 219, the heading marked No. 31, is the general heading for the whole of Part Third. This should be immediately followed by the heading of the section marked No. 32, and this letter where it now stands, should be replaced by section 33, as given in the table of contents.

On page 316, the heading of section 39th should conform to the table of contents.

OPINION OF JOHN WATSON, M. D.

PART I.

MR. PARISH'S AILMENTS AND DISABILITIES, AND THE CIRCUMSTANCES ATTENDING THEM.

1st.—*A brief Statement of the Case before the Surrogate.*

Mr. Henry Parish, a retired merchant, died in this city, on the 2d of March, 1856, in the 69th year of his age, (I. f. 827,) leaving a large estate, a widow to whom he had been married about 25 years, but no children.

On the 20th of September, 1842, preparatory to a European tour, which he was then about to undertake, for recreation and the benefit of his health, and while yet in the enjoyment of his intellectual faculties, Mr. Parish made his will; and subsequent to an attack of apoplexy, accompanied with paralysis of the right half of his body and limbs, he, with the assistance of other

persons, put his mark to three codicils, materially altering the said will. These documents are now propounded for Probate before the Hon. Alexander W. Bradford, Surrogate, in the Surrogate's Court of the County of New York, and the validity of the codicils is contested. The particulars of the case are derived from the printed case containing the testimony before the Surrogate, and are substantially as follows:

2d.—*Ailments prior to July*, 1849.

For about two years prior to his European tour, if not earlier, Mr. Parish had complained of occasional attacks of vertigo or fulness of blood in the head. "I saw him," says Dr. Delafield, "after two or three probably had occurred, before he went to Europe, and I heard of one in Europe, (I. f. 3130.) "I think he went to Europe somewhere about 1842, and these seizures took place within the previous two years. One of the attacks I remember occurred when he was coming home, and he was seized in the street, as described to me, with a degree of partial insensibility which obliged him to sit down, and I think he required some aid to enable him to get home. There was another, but I can't describe it distinctly, something of the same character, however. I was called in on both of these occasions." (I. f. 3130, '1.) And speaking of the nature of these seizures, he adds, "It was of the nature of apoplexy, but incomplete," (I. f. 3132.) And again, alluding to an attack which occurred while Mr. Parish was in a bath, or just after getting out of a bath, at Baden-Baden, in Switzerland, Dr. Delafield says, "I do not remember the details, but he had an attack like apoplexy, so as to be unconscious for a short time," (I. f. 3209.) Mr. Kernochan, his former partner in business, and who had enjoyed his intimate and unin-

terrupted friendship for fifty-six years, (I. f. 815,) also remarks, "I had always thought he was constitutionally subject to vertigo, or tendency of blood to the head; he had two or three attacks of it before he went to Europe, of a slight nature; he complained of it in his conversation; his father died of the same thing; it was a family complaint, a family tendency; I think so," (I. f. 889.) Again, adds Mr. Kernochan, "I believe I asked him, and he told me, he had a very unpleasant attack at Baden-Baden," (I. f. 903.) Mr. H. Parish, in a letter addressed to his brother Daniel, from Baden-Baden, Aug. 28th, 1843, thus speaks of it himself: "We have been detained at this place eight or ten days longer than we intended, by my illness, it being a severe vertigo in the head, brought on (as my doctor tells me) by my taking warm baths in the mineral waters of this place, *too hot*, together with too much exposure to the hot sun; which, thanks be to God, I am now recovered from. My attack was something similar to one I had in New York some years since, except *this* was more severe, but fortunately yielded to copious bleeding and emetics, keeping me in the house five or six days, but only confining me a few hours to my bed and room." (Exhibit, No. 235, III. f. 1430–'32.) Mrs. H. Parish, also writing to Mrs. Daniel Parish, from Dresden, Oct. 27th, 1843, says of it: "I have had my anxieties on this side of the great ocean, too, for the illness of Mr. Parish, at Baden-Baden, was frightful, nor do I think he has ever entirely recovered from it; you will be astonished to learn that his cheek is even sunken, so much flesh has he lost." (Exhibit, No. 133, III. f. 1165.) Mr. Parish returned from Europe in July, 1844, after an absence of more than a year, and it does not appear that the apoplectic seizures were, for some time afterwards, as serious as they had been previously. It is

probable, however, that they did not entirely disappear, for Dr. Delafield, when asked if he remembered that in the year 1849, before the final attack, Mr. Parish had a seizure in the market, and had to be carried home, answers: "Some such indistinct recollection does occur to me, but it is not clear; the mentioning of it brings it to my mind." (I. f. 3133.)

Besides these recurring attacks of temporary and partial insensibility, or unconsciousness, Mr. Parish, soon after retiring from active mercantile business, in 1838, (I. f. 828 and 1381,) began to suffer from disease of his eyes. With regard to the exact period of his first complaint of this sort, says Mr. Kernochan, "I am unable to say, but it must have been after he retired from business in 1838, that he made any serious complaint," (I. f. 935.) On this subject, Dr. Delafield states that Mr. Parish called upon him for aid or advice, in respect to his eyes, between two or three years before his attack of paralysis, which occurred on July 19th, 1849, (I. f. 3086,) and that previous to this call one of his eyes "had been impaired for so long a period that I understood it to be from birth, (I. f. 3087.) The disorder of the other eye, (the right eye,) of which he was now complaining," says Dr. Delafield, "was not at first distinct; after a time the cataract began to show itself there. That (eye) became partially blind, and then the other eye was operated upon, which was already useless, or nearly so." (I. f. 3088.) For the cataracts of both eyes, Mr. Parish was under treatment about eighteen months or two years, (I. f. 3090,) and the operation in the left eye having failed, Dr. Delafield, at an interval of several months, operated upon the right eye, or that the more recently affected, and with fair success. The condition of the eye, however, still "imposed upon him the necessity of using different kinds of glasses, and, after all," says Mr. Kernochan,

"his vision was, perhaps, not as perfect as desirable; but that did not last long, sometimes it was better, and if he took cold, sometimes he would be inconvenienced." After the attack of apoplexy and paralysis in 1849, he adds, "I think it was better some time after he recovered his strength than before he was attacked even." (I. f. 956,7.) In connection with this affection of the eyes, it is proper to add, that other members of Mr. Parish's family had suffered in a similar way. His father, after undergoing an operation for cataract, finally died of apoplexy at an advanced age. (I. f. 3070, 3077, and 907.) James Parish, the brother of Henry, was blind from cataract, (I. f. 910,) and his sister, Miss Ann Parish, appears also to have been under treatment for the same disease, as well as for paralysis. (I. f. 3079.)

3d.—*Character and Habits while in Health.*

But notwithstanding his various ailments, and forewarnings from family predispositions, Mr. Henry Parish was actively employed, most of the time after his return from Europe, in the care of his estate, and in the lucrative use of his money, (I. f. 828 to 835,) enjoying, in the mean while, with the exceptions already noticed, a moderate degree of health, but with an increasing tendency to fulness of habit or plethora. (I. f. 837.) He appears, however, in the early part of the summer of 1849, to have suffered from intermittent fever. For, in writing to his brother-in-law, A. M. Sherman, Esq., on the 2d of June, 1849, he says: "I had a return of my chills yesterday; took cayenne, and hope to stop it at once." (Exhibit No. 240, III. f. 1533.) Dr. Markoe also furnishes direct evidence on this point, saying: "I visited Mr. Parish at his house in Union Square, when he was suffering from fever

and ague; I cannot remember distinctly how recently before his attack I had seen him—it must have been a few weeks; that was for medical attendance; whether for fever and ague, I cannot remember." (II. f. 1970.) Up to this period he was of active habits, equable temper, of more than usual mental capacity as a merchant, deliberate and slow in forming his opinions and resolutions, but remarkably tenacious of his purpose; courteous to all around him, reserved in giving expression to his feelings, and always on good terms with his own household. But his habits were not domestic; and subsequent to his retirement from mercantile pursuits in 1838, he was in the habit of passing most of his evenings away from home, sometimes at whist parties, (I. f. 837,) or at the opera, (I. f. 936, '7,) but usually at the Union Club or the Rackett Club; (I. f. 837, 1814, 1815;) and remaining there from eight or nine o'clock in the evening to one or two o'clock at night. (I. f. 1815.) "I have frequently heard Mrs. Parish reproach him," says Mr. Kernochan, "for spending too many of his evenings at the Club, and sometimes for staying so late," (I. p. 225, f. 837,) partly, as is elsewhere added, for the reason "that he did not give her as much of his company in the evening as she desired, and partly out of anxiety for his eyes." (I. f. 936.) These habits, however, do not appear to have originated from want of proper regard for his wife, for whom he appears to have entertained a high regard, (I. f. 1045,) though "neither of them," as Mr. Kernochan states, "was very demonstrative in the display of feelings." (I. f. 1048.) "Prior to his attack," says Mr. Henry Delafield, "he was exceedingly affable and amiable, and courteous." As to his mind, "I should say it was slow, deliberative, and having made up his mind on any subject, was firm and very decisive." To his wife he was "affectionate,

kind, indulgent, granting her every wish she desired, expressed, in my presence." (III. f. 22.) Again Mr. Kernochan, in further delineation of Mr. Parish's character, says, "He was discreet in all things, so far as I know, of sound judgment, rather slow to decide." (I. f. 838.) "I think he generally acted on his own judgment, as much so as most men that I have met with." (I. f. 937.) "He generally adhered to an opinion once made up, or to a decision arrived at, and it was not easy to change it." (I. f. 938.) "As long as I have known him at all, I don't think he was a character to change much." (I. f. 938.) Again, "Mr. Parish was certainly a high-minded gentleman, and would never do any act unbecoming a gentleman; he had a great deal of self-respect, and a great command of temper; I never knew him do any thing under excitement." (I. f. 1069.) Before his attack, says Major Richard Delafield, his character was "mild, gentle, unruffled, yet decided in all matters to which he gave personal attention." And in regard to his tenacity of purpose, "Firm and decided I considered him always in his business transactions." (II. f. 1740.)

His regard for his family connections was in keeping with his general character, and his friendly relation with the whole of them appears never to have been interrupted. (I. f. 890, 901, 768, and 769.) For his brother Daniel, with whom, in association with Mr. Kernochan, he had been, during the greater part of his commercial life, a business-partner, he entertained a high regard. (I. f. 768, 769.) And from the time of his relinquishing business in 1838, up to the period of the attack in 1849, the friendship between him and Daniel Parish was of the most intimate character; the two brothers still keeping their accounts undivided, and meeting and consulting together daily at their common office, as in former years. (I. f. 905.) During

the period of time now under consideration, though not engaged in commercial pursuits, Mr. Henry Parish was occasionally "in the habit of buying commercial paper; it was rather a favorite occupation with him; he always," says Mr. Kernochan, "had a propensity to operate in notes." (I. f. 835.) But the time for considering him as no longer qualified for active occupation has now arrived.

4th.—*The Attack of July 19th, 1849, and its Immediate Consequences; Apoplexy, Hemiplegia, and Loss of Speech.*

On the morning of July 19th, 1849, about ten or eleven o'clock, Mr. Parish, after entering the office of Mr. Edward Prime, of the firm of Prime, Ward, and King, in Wall Street, became suddenly insensible, convulsed, and paralytic, (I. f. 1108.) "In the month of July, 1849, the day he had his attack," says Mr. Isaac H. Brown, "I met Mr. Parish in the vestibule of the Prime building, 54 Wall Street; after passing the usual time of day, he said, 'Good morning' to me, and then commenced joking me about the diversity of scenes that I met with in my daily pursuits; he appeared then to be in very good health; that conversation lasted from two to three minutes, it might have been longer. I then went into Mr. Prime's office * * while in there Mr. Parish came in; he took a seat to the left of the door, when young Nathaniel Prime said to him, 'Do you wish to see this book?'—the book of quotations of stock sales for the day—he made him no reply. Young Mr. Prime whispered me, 'He is a little ugly;' I said to him, 'No, he is sick, or something is the matter with him, for I have just been talking to him outside.' I then bawled out at the top of my

voice, 'Do you wish to see the stock quotations to-day?' and I observed a twitching of the shoulders; he made me no reply whatever; he was in the act of falling as I sprang and caught him; took him inside of the railing, turned down one of the office chairs, put a cushion under his head and opened his cravat, supposing he had been overcome by the heat; it was a very hot day; I then told Mr. Prime to go into the Appalachicola Land Company Office and get Major Delafield to bring him in and send for a doctor; in a few moments in came Major Joseph Delafield and Mr. Rufus Delafield and Dr. Van Rensselaer; the doctor told me it was the heat; I kept fanning Mr. Parish; went down stairs and got him some brandy; he took a little brandy; soon got his consciousness; they raised him up in his chair; he began to look around, and kept sitting, rubbing his right hand with his left hand; I pulled his right leg, raised it up, noticing that it kept slipping out; I then called Dr. Van Rensselaer's attention to the fact, and said, 'I will raise it up again, doctor, and you look and see.' After raising it up it slipped out again; the doctor observed it, and whispered to me, 'It is paralysis, Brown.' By this time Dr. Edward Delafield came in, and had heard of it; most of the brothers-in-law were in the office; the first word Dr. Delafield said to me was, 'Brown, who got that doctor here?' I said to him that I had sent out and got him through Mr. Prime; he said, 'You have saved that man's life;' I think he said any other doctor would have bled him, and he hadn't blood to lose, or something to that effect; at this time Mr. Parish held his spectacles in his left hand, and appeared to have acquired his consciousness; some went to set about to take him home; we carried him out and put him into a carriage of Dr. Delafield's at the door; I then asked somebody, I think Dr. Delafield, whether I had not

better go up with them and help to get him into the house. I rode up in the carriage as far as Fulton street and Broadway; we went very slow; I then suggested to Dr. Delafield I had better get out of the carriage as it was a light vehicle; I took the car at the Park and went up to the house at Union Square; they had arrived there just before me; had got an easy chair down on the side-walk; we took him out, lifted him out of the carriage, and carried him up stairs; I took hold of the chair, and I don't know who the man was who took hold of the other; we carried him up stairs; we then undressed him and got him into bed; I don't know but Mrs. Parish was there at the time of my arrival, but she was there after we had got him in bed; when Mrs. Parish came into the room he appeared to nod—nodded; she then said he knows where he is; she made that remark; I remained there I suppose probably ten or fifteen minutes after that; I didn't see Mr. Parish again until some time in February of the next year, 1850."—(II. f. 1705 to 1711.)

Dr. Delafield, who had been summoned to the case at Mr. Prime's office in Wall street, after enumerating the persons already in attendance there, and who assisted him in taking Mr. Parish home, says, "I found that Mr. Parish had been attacked with a fit of apoplexy, and was beginning to recover from the first shock; my first object was to get him home; he was placed in my own carriage, which was a coach, and driven home; this was done mainly with the assistance of Brown, the sexton, who accompanied me to Union Square; he went upon the box; when we arrived at the house he [Mr. Parish] was carried to his bed-room on the third floor; he soon began to exhibit confused consciousness, and we shortly discovered that his right side was paralyzed; he recovered somewhat rapidly from this condition, so that about on the first of August I considered him out

of immediate danger; I then was out of town for about a fortnight at my country place on Long Island, leaving him in charge of Dr. Francis U. Johnston, whom I had called in consultation immediately after the attack, and of my partner, Dr. Markoe, who had also attended him from the beginning a good deal more than myself; we were one or the other of us constantly with him a greater part of the time till I left town; I may say by night as well as by day, one of us sleeping at the house a good deal. On my return about the middle of August I found Mr. Parish much improved, and he continued to improve regularly up to about the first of October." (I. f. 2041–4.) Nor does Dr. Delafield remember any recurrence of apoplectic seizures up to that time. (I. f. 2044.) "Mr. Parish," he adds, "first began to sit up about the middle of August, or probably earlier," (I. f. 2048,) and he thinks that before the first of October he had begun to walk with aid, and that he had been brought down stairs; though on this last point he will not be positive. (I. f. 2050–1.) The paralytic seizure he characterizes as "Hemiplegia," (I. f. 2052,) leading to "defect of motion, not of sensation," (I. f. 2052,) and implicating "the right arm and the right leg, and also the organs of speech." (I. f. 2049.) In reference to the use of the left arm, says Dr. D., "as he recovered strength in his body generally that quickly returned. He had some use of it, so as to show it was not paralyzed, in a day or two," and Dr. D. gives us to understand that his arm was never afterwards affected by paralysis, and so also of the left leg. (I. f. 3232.) Up to the first of October, adds Dr. Delafield, "he necessarily lost flesh a good deal;" (I. f. 2053;) but "he had improved to a great extent, and I then entertained hopes of a recovery of speech and a recovery of the use of his right arm to a much greater degree than was ever realized." (I. f. 2055–6.) In the

subsequent progress of the case, according to Dr. Markoe, "he gained almost no control over the movements of the right arm at any time: he gained very considerable control of the movements of the leg; so much so that he was able to walk at one time with a cane for a few steps; the muscles of the face soon recovered almost entirely from their paralytic condition." The sphincter of the bladder remained affected "slightly, and only occasionally it gave him trouble," and the catheter was used "at times; I should think not a dozen times in his whole life. He would soon get the relief by the use of the instrument for two or three successive days, and every thing would go on as well as before." (II. f. 1987–8.)

5th.—*The Attack in October*, 1849.

"Shortly after the first of October, 1849," says Dr. Delafield, "he was attacked with new and very alarming symptoms: severe pain in the bowels, frequent and unavailing attempts at evacuating the bowels, and a retention of urine took place; he continued suffering severely at intervals until after some days a discharge of exceedingly offensive matter took place from the bowels; this was repeated from time to time until about the middle of October, he, in the meantime, having become exceedingly exhausted," &c., (I. f. 2056–7,) not, however, to such a degree as to prevent him from being again down stairs and riding out in a carriage in the course of the month of November. (I. f. 2069.) The attack above described Dr. Delafield attributes to an intussusceptio, (I. f. 2060,) and slough of a portion of the lower bowel itself. (I. f. 2057–64.) But of this fact he is not absolutely certain; for when asked if he knew such to have been certainly the fact, he says, "Not with absolute certainty, but as far as

could be learned by careful examination with the microscope by competent persons." (I. f. 3298.) The attack was accompanied by obstructions requiring the use of the catheter for relieving the bladder (I. f. 2062–3144) and of enemata for unloading the bowels. (I. f. 2059.) This accumulation of diseases he thinks was "probably in some way dependent upon the condition of paralysis, but the point is a difficult one to determine." (I. f. 2068.) Dr. Markoe, without being able to assign any cause for this ill turn in October, 1849, (II. f. 2104,) says, "He had about this time a very severe attack, the earlier symptoms of which were great distress, particularly at night—distress which he referred, by gestures, to the stomach; connected with this, fever, irregular in its character. The disease lasted many days—several days certainly—before coming to what may be considered its climax, during which time it was necessary to use large anodynes, and by their help only partial relief was obtained. We considered him so ill at that time that one or the other of us—Dr. Delafield or myself—passed the night with him every night. After these symptoms a certain number of days a slough appeared at the anus, coming from the bowels evidently, which, in the course of twenty-four hours after its appearance and first protrusion from the bowels, came away entirely, accompanied with a good deal of bad smelling matter. He was not materially relieved until after the coming away of this slough. From that time he rapidly improved, and, somewhat to our surprise, gained very nearly his natural, his usual condition before the attack.* (II. f. 1978–9.)

* Drs. Delafield and Markoe both express the belief that this incidental affection had no special connection with Mr. Parish's primary disease, and in this I am disposed to agree with them. I have seen somewhat similar disturbances brought about by the carelessness of nurses in administering enemas. The following instance from Guy's Hospital Report is one of the

6th.—*The Later Ailments.*

"After recovering from the immediate effects of this latter ailment," says Dr. Delafield, "Mr. Parish had a number of attacks distinct from the general disease, but the most frequent dependent upon its cause; or, in other words, dependent upon the condition of the brain, which led to the disease." (I. f. 2070.) "He had one or more severe attacks of cholera morbus; he had more than one, I think, severe attack of inflammation of the lungs; at one time an abscess formed under the angle of the jaw, which became so large as to threaten suffocation, and there were various minor attacks from time to time." (I. f. 2071.)

Dr. Markoe, in allusion to the attack in July, 1849, considers it "apoplectic," (II. f. 1973,) and that the paralysis, in connection with it, implicated "the whole right side, including the organs of speech," "all the muscles of the back which have connection with the extremities, and the sphincters of the bladder and rectum." "The motion of the head and neck was not affected; there was paralysis of the lips and the movements of some of the facial muscles." As to the circulation and

same sort: "The patient in the act of passing an enema-tube experienced great, indeed, excruciating pain; fifteen hours afterwards he had emphysema of the integuments of the abdomen; a few days subsequently he had offensive purulent discharges; a portion of the sloughing membrane passed per anum; and after death a large ulcer of the mucous membrane of the rectum was discovered, together with a perforation of the muscular coat. It appears probable that a large abscess had formed between the mucous and muscular coats, that the former had sloughed away, leaving the latter bare, while the cellular membrane behind it had been comparatively little affected. I believe," adds the reporter, "that cases of perforation of the rectum from the unskilful introduction of the clyster-pipes are not very rare, and that most [anatomical] museums contain specimens of the accident; but I do not recollect myself to have met with an instance in which it was productive of emphysema." (*See North Amer. Med. Rev. Vol. I. p.* 552, *for July*, 1857, *from Guy's Hospital Report, Vol. II. p.* 68, *for* 1856.)

the sensibility of the parts involved: "Both were somewhat impaired; sensation but slightly, circulation considerably, particularly in the lower extremities, the right leg and limb." "It is a form of paralysis which occupies one-half of the body; this case would come under the denomination of hemiplegia." (II. f. 1983–4.) Of the incidental terms of illness subsequent to the principal attack, Dr. Markoe speaks as follows: "He suffered great anxiety and apprehension about his eyes, and attention was constantly necessary, and insisted on by him in reference to that difficulty; he had, also, several acute attacks of disease at various times, which I cannot now remember, of which, one was an attack of inflammation of the lungs; another was a troublesome abscess under the jaw; another, more chronic and longer continued, was an inflammation of the skin of both legs; he had, also, at times, a great deal of swelling of the legs, requiring medical attention; his bowels required frequent attention; he had difficulty about the urinary passages, sometimes incontinence, sometimes obstruction, which required surgical interference; his bladder attacks occurred at intervals through a large portion of his life." (II. f. 1985–6.) "And," elsewhere adds Dr. Markoe, "he was obliged to wear an artificial receptacle to receive the urine which thus came off; this was at times only; this was a more common condition than that of retention of urine." (II. f. 1994.)

"His general health, at one time," says Dr. Delafield, "became perfectly good, to such a degree, that no person would have suspected, from looking at him, that he was not perfectly well; this condition he must have arrived at, well, certainly not later than the 1st of January, 1853, probably earlier; I believe I may say, that he continued to improve until the end even of 1854, and, perhaps, for six months after that till the

middle of 1855; at all events, till January, 1855, and a few months later; that is, he continued to improve in all general respects; the power of using the paralyzed leg improved, I may say the whole time, but the arm, which gained somewhat during the first six months, afterwards entirely lost its power." After the term of improvement had ceased, "he became more heavy, less inclined to move, more inclined to sleep, but still a fair, good, general health." (I. 2072–3.) "I think," says Mr. Kernochan, "he was as strong within the first two years as he was at any time after his attack, I mean after the first year and during the second." "I think that same degree of strength did not subsequently continue up to the time of his death. I thought he had been failing for at least the last year of his life. I had no means of perceiving much change, and did not, but his failing was visible for the last year. I thought so," (I. f. 963–4.) "For about seven weeks before his death," says Dr. Delafield, "he began to fail in health and strength, without any very definite symptoms, but during the latter part of the time the lungs became the seat of distress, and difficulty of breathing was a prominent symptom. This difficulty increased to within a few hours of his death, and he then quietly sank away, and died without any special suffering," (I. f. 2074.) "As well as I remember," says Dr. Markoe, "the last of Mr. Parish's life, the last six months certainly, he was not as free from these occasional attacks, and his health did not seem to be so firm. The last sickness occupied in its invasion and threatenings several weeks; in its serious aspect, probably not more than a fortnight. The illness seemed to be congestion of the lungs, as a main feature; it was a complicated disease, however, depending, I should say, as we supposed, upon the condition of the brain," (II. f. 1990–1.) "During the last few weeks of his

life, for some reason difficult to explain," says Dr. Delafield, "his food was not swallowed as soon as it was masticated." (I. f. 3299.)

"I was with him," says the Rev. Dr. Taylor, "at about nine o'clock of the night in which he died; he died at four o'clock the next morning [March 2d, 1856], as I understood; he was then in the agony of death." "I found him breathing very heavily, with all the appearance of approaching dissolution; I spoke to him, expressing the hope that he knew me; he turned his head and gave me a nod of recognition, intimating that he knew who I was; he turned his head at my words very distinctly; I then remarked that I should be very sorry to disturb him, but if you wish, I will make a short prayer; he again looked at me, and nodded his head in acquiescence; during the prayer his heavy breathing was in a measure suppressed, and at its conclusion I took his hand, when he sensibly pressed mine, and I bade him adieu; I never saw him again." (I. f. 3346.) Immediately after rallying from the first shock of the paralysis, he did not always recognize his friends at first sight. "Not so promptly," says Mr. Kernochan, "at first; he was very much prostrated; I should say within three months he recognized me very promptly, and he continued to recognize me quite as much so within one or two years afterwards; he always recognized me afterwards." (I. f. 954.)

7th.—*Disorder of the Right Eye.*

Some eighteen months or two years after the first stroke of paralysis, although his vision had in the meanwhile been as good as at any time subsequent to the operation for cataract, he began to complain of his

sight. (I. f. 2075.) "I discovered," says Dr. Delafield, "that apparently the difficulty was not so much injury to the sight of which he complained, as the floating of motes before his eyes." (I. f. 2075–'6.) During the continuance of this new affection, Drs. George Wilkes and Abram Dubois were called on consultation. (I. f. 2077.) "This difficulty, however, of which he complained, seemed gradually to subside, and I presume the sight must eventually have become somewhat dimmed from the fact that he laid aside the habit he was previously in, of looking over the newspapers and papers generally, which I would occasionally see him examining." (I. f. 2076–'7.)

Dr. Markoe, when questioned concerning this affection, and as to whether it was of a different character from the affection of the eyes prior to July, 1849, says, "I think it was." "It never reached a point of sufficient intensity to satisfy me precisely of its nature, and therefore I can hardly give it a single name." He thinks it tended to "amaurosis, a paralysis of the nerve of vision producing blindness." (II. f. 1992–'3.) Dr. Wilkes ascribes it to "Traumatic Amaurosis, being an affection of the nerve following the operation of cataract." (II. f. 222.) And Dr. Dubois says, "I asked Mr. Parish in reference to his principal trouble, which were motes; he answered my question with a simple nod of the head, and a peculiar rapid passage of the hand before his eyes, making at the same time a peculiar sound—noise—which I should call a buzzing sound, by which gesture and manner I suppose he wished to convey to me an idea of the annoyance he experienced from these motes." (II. f. 179–'80.)

8th.—*Natural Evacuations.*

In the early period of his illness he suffered from bloody urine (I. f. 3214), and afterwards from loss of control over the discharges, both from the bowels and the bladder. Drs. Delafield and Markoe both allude to the natural evacuations; but for a full description we must turn to the non-professional witnesses. George Simmons, who nursed Mr. Parish from December, 1849, till October, 1850, says, in respect to Mr. Parish's evacuations, "They were sometimes good, sometimes bad. (I. f. 1718.) "Sometimes his water was very bad; he couldn't keep that, and wet himself very frequently; sometimes he would dirt himself too." (I. f. 1718.) Thomas Wingrove, who was his nurse from October, 1850, till September, 1851, says, "Mr. Parish had no way of assisting himself in any way, that is, going from the room to the water-closet, without my assistance; and sometimes it occurred that I have been too late upon that particular business, as Mr. Parish did not have control over his urine to hold it long enough sometimes to get to the water-closet; and in the same manner with other purposes at some times, not so often as his urine; perhaps it occurred three or four times in his besmearing himself in my time." (I. f. 1555–6.) Again, John Clarke, who nursed him from December, 1854, till April, 1855, says, "At meal times we would generally keep a watch on him—a very good watch—for sometimes he would make his water before I could get him ready; sometimes he would make his other evacuations in his pantaloons'.' (I. f. 1744.) "He was very feeble and weak, and sometimes I got his clothes off him; he would have his pantaloons dirtied." (I. f. 1744.) "I kept an eye always on him; he would certainly finish his dinner before he would go to the

water-closet, and then between the time of dinner, or whatever it would be, he would have himself wet before I would get him to the water-closet, or dirty." (I. f. 1744–5.) "I would see him eating his dinner so fast that I knew he wanted to go." (I. f. 1745.) And while thus hurrying at table, "I would see him with his hand at the front of his pantaloons, as if he wanted to open them." (I. f. 1745.) "He generally would look at me then, that was for me to take him away," (I. f. 1746.) During the four months of this last nurse's term of service, these occurrences at the dinner table, indicating that Mr. Parish was in immediate need of his assistance, "happened many a time, I cannot say how often." "It might be," says he, "ten or fifteen times." (I. f. 1785.) Edward Clark, the coachman, still with Mrs. Parish, and who had been with the family without intermission for many years, even prior to Mr. Parish's illness, says, that on one occasion during the service of Simmons, Mr. Parish, while in the barouche waiting for Mrs. Parish, was taken suddenly. "Yes, sir, he happened to be taken short in regard to his urine, and he wet the cushion;" "the valet told me of it; it was all over then, and that was before Mrs. Parish came out; I saw it when the valet told me of it." (II. f. 2225.) Mrs. P. spoke about it on her return to the carriage, in "not to call a loud tone; not very loud." "It must be to the valet, because she was a little excited herself about the accident occurring; I had nothing to do with it." And as to Mr. Parish at the time, "He made noises and sounds both, but I disremember what they were; I wasn't looking at him over my shoulder at all, but I heard him hollering and bawling." (II. f. 2227–29.)

9th.—*Periodical Convulsions.*

The occasional attacks of vertigo, fulness of blood in the head, or, as Dr. Delafield calls them, incomplete apoplectic seizures, to which Mr. Parish was subject since about the year 1840, or two years before his visit to Europe, have already been detailed. How far these or any of them may have been associated with spasmodic or convulsive action of the muscles, we have not the means of knowing, since Dr. Delafield had never witnessed these early attacks, or even the commencement of any of the spasms or convulsions to which Mr. Parish was subject. We have seen that the violent and overwhelming attack which, on the 19th of July, 1849, ushered in the paralysis, was accompanied with convulsions; and we ascertain from Dr. Delafield that Mr. Parish was ever after subject, at irregular intervals, to spasms, which made it "impossible to leave him alone, as a general rule." (I. f. 2091.) "They commenced in the autumn, or early winter, after his attack;* they recurred at first at intervals of four, perhaps eight days, to three weeks; the intervals gradually increased, and, with occasional exceptions, the convulsions were slighter; in 1850 they were most frequent; in 1851, 1852, and 1853, they gradually diminished in frequency; in 1854 and 1855 they occurred at long intervals, once in six months, and I think once almost a year intervened. (I. f.

* According to the testimony of James C. Fisher, who nursed Mr. Parish from the date of the attack in July, 1849, till about the 24th of December following, the convulsions began in September. (II. f. 900.) The credibility of this witness, however, who appears on the part of the proponent, has been on several points so seriously impeached, as to make it questionable how far he can be believed in any thing he states. See his evidence invalidated by the testimony of Dr. F. U. Johnston, T. D. Stewart, William Barber, and E. Faber. (III. from f. 1478 to 1610.)

3054.) When asked for the proper medical name, and a scientific description of these spasms, Dr. Delafield states: "They would be called simply convulsions; whether epileptic, or not, would give rise to difference of opinion." (I. f. 3226, 3227.)

He elsewhere states, as indications of their approach, that Mr. Parish "was always much more irritable, and generally uncomfortable, for some preceding days." (I. f. 3221, 3222.) And again: "He was evidently not so well, and most strikingly his temper was more irritable, and after the spasm there would be a sudden and marked change in these particulars." (I. f. 3051.) Dr. Delafield never having himself witnessed the commencement of any of these convulsions, says, on the authority of the eye-witnesses, "They would commonly come on suddenly, there would be some sudden noise in his throat, sometimes resembling a shriek or scream, his face would redden violently, the whole body would be convulsed, and if not supported, he would sink down." (I. f. 3220.) "The convulsed muscles became alternately rigid and relaxed." (I. f. 3220.) "The convulsion proper would pass in a few minutes; certain convulsive actions, consequent upon it, would last some hours, which I would see." (I. f. 3219, 3220.) Dr. Delafield was probably not summoned to Mr. Parish on every recurrence of these attacks. (I. f. 3218.) But on his arrival after any of them, he states: "I would find him lying on a couch in a state approaching insensibility, sometimes absolutely insensible, with the paralyzed limb most commonly twitching, jerking—both legs did so, more or less, the paralyzed one the most so." (I. f. 3221.) Mr. Parish, during these paroxysms, suffered "injury to the tongue by the teeth, arising from the convulsive action of the jaw, unless provided against by inserting some substance between the teeth, for which," says Dr. Delafield, "I

suggested a piece of soft wood to be always at hand to be placed between the teeth." (I. f. 3222.) When asked from what nervous centre these convulsive movements were supposed to originate, he replies, "The brain." And when asked if the convulsions were connected with the general apoplectic disease of Mr. Parish, he says: "It would be more proper to say they were connected with the condition of the brain left by the apoplectic attack." (I. f. 3223.) Some of these paroxysms, he admits, threatened to result fatally; "one took place in his carriage, in front of Bowen and McNamee's store; he did not come out of it, so that I thought him out of danger, the entire day, and I very much doubted then whether he would recover; upon another occasion, upon being sent for, I found his condition so alarming, and felt his recovery so nearly hopeless, that I immediately despatched a messenger for his brother, Mr. Daniel Parish, and he obeyed the summons." (I. f. 3052, 3053.) The date of the last-mentioned of these two occurrences, Dr. Delafield is unable to state. The other appears to have been during the year 1852 or 1853. (I. f. 3224, 3225.) Dr. Markoe thus speaks in reference to these spasms: "He was subject to epileptic spasms during a large portion of his illness; they were sometimes repeated as often as once in a month, but in the latter years of his life were much less frequent; they were generally of moderate severity, only two or three assuming a dangerous character; they ordinarily were from five to fifteen minutes in duration, except the severe ones, which were much longer; I saw him in a good many of them—four or five certainly; he was generally low-spirited, and more than usually irritable, before the spasm; and after the spasm he usually seemed brighter and better than he had been before; more cheerful and more quiet." In reference to the

term "epileptic," "I use it in a very general acceptation, so as to include all habitual, sudden, convulsive seizures, whether from disease of the brain or from other causes." "Technically, it is confined to a certain class of cases not referable to disease of the brain, but depending upon general disorder of the nervous system; cases such as those of Mr. Parish are called epileptic, more from convenience than any thing else; the term that would be precisely proper would be epileptiform." And as to the meaning and character of idiopathic epilepsy, he says: "I have already indicated that character in my first reply; that is, that it embraces cases on which the disease does not depend upon disease of the brain, but upon general disorder, frequently not organic, of the nervous system." (II. f. 2031, 2033.)

The attacks which we have now been considering may perhaps be still further elucidated from the descriptions furnished by the nurses, before whose eyes they were of frequent occurrence. Geo. S. Simmons (nurse from Dec. 1849 till Oct. '50) says, "There were times during the coming on of those spasms, that he would not care to be dressed at all in time for breakfast; when these passed off he was generally very correct in his time; these were all the variations before breakfast." (I. f. 1686, 1687.) With regard to the spasms, "They would vary, sometimes two, sometimes three in one month; they varied in duration from 25 to 30 minutes; they came on with a sudden scream, a contraction of all the muscles and organs of the body; the body would be in complete contraction; the face was very black, and the froth would work out of his mouth; there was a sudden twitching of the limbs and body altogether, and very frequently he would bite his tongue, which we always had to carry a little stick to prevent, by putting it in his mouth." (I. f. 1700.) According to this same witness, Mr. Parish's temper was

subject to marked changes for the worse, generally when "these spells, these spasms, were coming on," (I. f. 1701.) Thos. Wingrove, (nurse from 1850 till Sept. 29th, 1851,) speaking of the frequency of these attacks, says, "I should say from once to three times a month, generally speaking; I remember one going about as far as six weeks;" again, "Mr. Parish took them unawares, as he was sitting in his chair, once when I was in the act of shaving him, and the razor upon his face; he went off with a little twitter of the tongue, and got quite black in the face, and stiff; he had one on me, in my arms, in the dining-room, on the carpet, on the floor; that lasted from fifteen to twenty minutes; generally speaking that was about the length; he closed his mouth tight sometimes, caught his tongue or lip; he used to cut himself occasionally; I had a small piece of wood which the doctors ordered to be put between his teeth before they closed, if possible; he worked convulsive with his feet up and down, and with his hands and whole body; he was perfectly straight and stiff, and foamed a good deal out of the mouth; that is as near as I can describe it," (I. f. 1533, '4.) Wm. Brown, nurse from Oct. 13th, 1851, till the middle of Nov. 1854, says, "The first spasm Mr. Parish took after I entered the service was about six weeks after, in his carriage; it might have been that he had from eight to a dozen spasms during the first twelve months; there might not have been quite so many; they gradually diminished after that to three, and four, and six months between them, and the last year the interval was six months," (II. f. 1299.) The appearances would show themselves perhaps ten days or a fortnight beforehand; any little thing then would make him irritable, he would be quick; want his ideas known immediately; that is as far as I can describe it," (II. f. 1380.) Again, James Clarke, who nursed him from Dec. 1854,

till April, 1855, informs us that these spasms or convulsions were still continuing, and in speaking of the fit, he says, "It came on with a trembling and choking and frothing and foaming at the mouth; he got black in the face; there was nothing but a constant trembling about his body, I suppose it lasted about three or four hours, I could not exactly say," (I. f. 1750.) "On these occasions," says the same witness elsewhere, "he was put in bed and took a sleep; he worked a little before he went to sleep; he was very much fatigued and weak after; I could not say how long they usually lasted," (I. f. 1786.) Like many persons subject to epilepsy or periodically recurring convulsions, Mr. Parish appears to have been fond of indulging his appetite. "Eating," says Wingrove, "seemed to be his predominant passion," (I. f. 1662.) When Mrs. Parish would, in accordance with the physicians' orders, attempt to restrain him, and the servants "would be ordered to take away the dinner off the table," wishing for more, "he pointed with his finger, saying, yean, yean, yean," pointing at "any thing that was on the table, and very often to be helped with brandy and water." "Mrs. Parish would always pour out so much in a tumbler, and when it was done he would hand the glass back to me; I would ask Mrs. Parish if he was to have any more, and she would tell that he had enough, it would injure him, that the doctor had said so;" then "putting his finger down into the glass, saying, yean, yean, yean;" "He would get very irritable; he would beat on the table with his hand closed, and say, 'yean, yean, yean.' During this time when he would be refused he would be more irritable, and beat longer and stronger, very much excited, and sometimes have to be helped again," (I. f. 1694–6.) The nurse Clarke also says of Mr. Parish, that "he was very ravenous for dinner," (I. f. 1746.) Dr. Dela-

field, finding restraint of no avail, at length yielded to this propensity on the part of Mr. Parish. "He himself gradually insisted upon and did eat more, and this occurring some time before I knew it, and he none the worse for it, I urged him no further on the subject." So that for "about the last eighteen months of his life" he was no longer subjected to restraint, (I. f. 3230.)

10th.—*Change of Temper and Disposition.*

In connection with his protracted illness from the paralysis, periodically recurring convulsions, loss of speech and other ailments, Mr. Parish's temper and disposition appear to have been remarkably perverted from the equanimity and self-control which were among his more striking traits of character while in health. We have already alluded to his irritability of temper among the usual precursors of the convulsions. The slightest opposition or disappointment independent of these convulsions would at times excite a similar state of feeling. "Prior to the attack," says Dr. Delafield, his brother-in-law and physician, "he was a pleasant, rather than a joyous man in his disposition; fond of a frolic, I should say; loved lively and gay conversation —any thing that excited a laugh." (I. f. 2099.) But after his attack, "his nervous temperament became very much impaired, rendering him irritable, more easily excited than before, and to a certain extent changing his disposition. I should have said his nervous system became impaired instead of his nervous temperament," shown, "as I have already stated, mainly by altering his disposition, but also by causing emotions of almost any kind to be more easily excited; if, for instance, a former friend would see him for the first time after his illness, it excited him sometimes to a vio-

lent paroxysm of weeping: this was the principal effect produced, aside from the effect upon his disposition generally." (I. f. 2098, '9.) Dr. Markoe had not known much of him before his illness, but says of Mr. P.'s condition afterwards, "As far as I know he was much more irascible, easily excited when any thing roused him, and in general of a more irritable temper than I supposed he was before his attack; he was never, however, in the particular of politeness, wanting to me on any single occasion of my having intercourse with him:" and as to tone of feeling, "depressed, uniformly almost, and low-spirited when I saw him." (II. f. 2020, '21.) Mr. Kernochan, the most intimate friend of his early, as well as of his riper years—his partner in business, and his sympathizing and constant visitor and guest throughout the whole of his protracted illness, says of him, while yet in health, that "he was the most placid and unexcitable man that I almost ever knew." (I. f. 887.) After the attack, adds Mr. Kernochan, "I don't think I ever saw him laugh since, but I have sometimes seen a more agreeable expression on his face than at other times." (I. f. 885.) "I very often saw him shed tears; for certainly a year, I think, he shed tears almost every time I saw him; I think it was within the first two years after the attack, and more or less so through the whole course of the period after the attack." (I. f. 886.) "Frequently he was quite irritable, I thought; that occurred generally in the interviews in the carriage, and when there was a difficulty in making out what he wanted, or Mrs. Parish suggested something that he didn't want." (I. f. 886.) This irritability would be manifested "by violent gestures with his left hand, and terminating generally with a push at Mrs. Parish." (I. f. 1040.) In the discussion at the counting-room, on January 7th, 1850, between Mr. Folsom and Mrs. Parish, in the presence

of Mr. Parish, "I remarked," says Mr. Folsom, "to the effect, that I had no doubt Mr. Parish was satisfied with what I had done, or words of the same effect; she then said exactly these words, I think, 'If Mr. Parish could speak, he would very soon let you know whether he was satisfied or not.' I replied, 'If he should ever come to his mind, you may thank your stars if you can render as clear an account as I can,' or words to that effect: these are almost the precise words I used; she then retorted angrily, and Mr. Parish turned abruptly towards her, with a menacing gesture of the head, and I may say struck her upon the shoulder, and pointed towards the carriage." (I. f. 1151–3.) Mr. Folsom, who had for many years been his confidential clerk, had never before known Mr. Parish to treat any person rudely. "I never did," adds this witness, "and never would believe him capable of so rude an act, unless I had seen him perform it." (I. f. 1183.) To the frequent shedding of tears Mr. Folsom also bears witness, and to all appearance without any real cause for emotion. "Sometimes," says he, "I thought it was pain, weakness of mind, or hysterical; recollecting when I was in a very low condition myself, I had frequently shed tears without the power of avoiding it." (I. f. 1201.) Mr. Wm. A. Gasquet, his former partner in business, when in the city from New Orleans, as he usually was nearly every summer, also witnessed this tendency to weeping. "Oftentimes," says Mr. G., "he was affected, not so much at other times; generally he was affected when I called; he generally showed it in the same way by weeping; shedding tears." Mr. G. says also of himself on these occasions, "Yes, I could not help being affected—seeing an old partner, an old friend; I was always affected more or less; on the first occasion I was affected to tears; afterwards, I was often affected to

tears—not every time; I would get used to it after I first saw him." (III. f. 2019, '20.) Mr. Henry Delafield, speaking of Mr. Parish's deportment at table, after the attack, says: "I saw no difference, with the exception that Mr. Parish could not speak, and that he did not take the head of the table." (III. f. 32.) He admits, however, that Mr. Parish was at times subject to irritability; "on such occasions, when we could not ascertain his wishes, he would occasionally, but not often, be irritated;" showing this "by making sounds and attempt to speak—continued sounds." (III. f. 143.) And he would shed tears "on meeting a friend whom he had not seen for some time; this friend speaking to him, and shaking hands, a tear would then come in his eyes." (III. f. 145.) On the subject of irritability, Major Richard Delafield says, referring to a proposed visit to Greenwood Cemetery in 1852, "Mrs. Parish complained of being indisposed, unwell, and did not wish to go; I interceded with Mr. Parish to postpone his visit; he manifested towards me great irritation, accompanied by gesticulations to me so unpleasant that I determined never to attempt to thwart his wishes again; now his manner, and the irritation thus manifested, it is not in my power to explain to you other than this statement of the fact, and my feelings at the time." (II. f. 1767, '8.) Again, as to temper, he was, says the nurse Simmons, "sometimes very mild, sometimes very much agitated; if he was going any ways, he would shove you aside if you wanted to stop him." (I. f. 1701.) "As to that," says the nurse Wingrove, "Mr. Parish was very changeable, sometimes very irritable, sometimes very passionate, and sometimes very calm." (I. f. 1505, '6.) Again: "Mr. Parish was very changeable in his temper, and very easily ruffled in his temper, and very passionate at times; the slightest occurrence got him into those

passions." (I. f. 1518.) The same witness relates that he had repeatedly received blows from him, and that "several times he did the same with Mrs. Parish; he has made an effort with his crutch sometimes to hit Mrs. Parish; when they were out of the carriage, coming in from riding, he would hit Mrs. Parish on the skirts of her dress; has often done so, but never to hurt; I always remarked that Mrs. Parish kept out of his way whenever he was in any of those little tempers." (I. f. 1520.) Again: "At certain times when he was passionate there was no man, or woman either, that appeared to have any control; that might last five, ten, fifteen, or twenty minutes, half an hour, &c.; but when recovered from that, you could lead him about like a child." (I. f. 1609.) Again, in reference to the visit to the cellar, says the same witness: "On this occasion Mr. Parish was very passionate, and very much excited; and I assisted him on going around, as usual, by my arm, and I received myself several punches of his elbow on the stairs, on our returning back from the cellar. Mrs. Parish was standing on the head of the stairs, looking at the occurrence. The stairs are very steep, and they were all laughing at me getting what I did." (I. f. 1654.) So, also, while the market-man Austin, from whom he had long been in the habit of purchasing, was exhibiting to him his choice of poultry, &c., Mr. Parish, sitting in his carriage, flourished his cane at him. "He flourished his cane," says Austin, "and I went away, sorry to see him behave so." "He acted at me as if he was mad at me; I could not say what for, and so I went away; or didn't know me; he made a motion with his eyes and mouth, and acted to me like a crazy man," (I. f. 1922, '3.) The nurse Simmons, Mr. Davis, and the Rev. Dr. Taylor, also bear witness to his frequent shedding of tears. Simmons never saw Mr. Parish laugh or exhibit gaiety, but, says this witness, "I have seen

Mr. Parish cry, shed tears at least"—"a number of times," (I. f. 1713, '14.) So also when told by the Rev. Dr. Taylor of Mr. Austin's failure, "he seemed to be affected by it, his tears ran rapidly down his cheeks, and his look was that of sorrow and regret," (I. f. 3380.) And to this adds Dr. Taylor, "Whenever excited, his tears would seem to flow spontaneously, without his control," (I. f. 3442.) "He was," says Mr. Davis, "apt to weep when first meeting an old friend, and on expressions of condolence with him on his condition; I don't recollect any other instances of weeping. On almost all such occasions I would witness that. On friends coming around his carriage when stopping in Wall street or elsewhere, shaking hands with him, and he recognizing them, he expressed emotion by weeping; and also at home," (I. f. 642, '3.) Wm. Youngs, the builder, who was frequently at the house on business, says that Mr. Parish often shed tears, "He appeared to be crying, certainly was shedding tears; I think half a dozen times I have seen him, it may be oftener, but I can speak of half a dozen." "The incidental remarks of the day were the only topics of conversation in any instances in which I saw him weep; generally his weeping was when I inquired after his health," (II. f. 750, '1.)

11th.—*Sounds and Gesticulations used in substitution for Speech.*

"His power of speech," says Dr. Delafield, "was mainly abrogated on his first attack, and at any time from that moment to his death there never was beyond the use of a few monosyllables." (I. f. 2081, '2.) "Within a few days after the attack," says Dr. Delafield, "I was enabled to get intelligent answers, either yes or no. I am not speaking of words. I mean that I understood him; and as the time went on from the

one period to the other, the facility of these communications became greater." (I. f. 3058.) Being requested to enumerate the monosyllables, Dr. Delafield replies, "those in most common use were *yes* and *no*, when in pain he would not unfrequently exclaim, '*oh dear*, *oh dear*;' that was a common ejaculation." Dr. Delafield alludes to a few other words which cannot be recalled by him, which he appears to have heard of merely, and which were not repeated. (I. f. 2082.) Among the ejaculations he enumerates "*oh* and *ah*, or something like that;" and "such a sound as *nyeh*, making a monosyllable of it." He adds, "there were always some sounds of some kinds testifying assent, over and above" yes, "such as we all use; nodding his head and making a sound such as other persons use who don't intend to speak; I can't," he concludes, "call to mind any other sounds at this moment." (I. f. 2085, '6.) Dr. Delafield, however, thinks "there were efforts from time to time made to a considerable degree; they evidently showed anxiety to speak; he tried to speak. (I. f. 2083.) According to the evidence of the Rev. Dr. Taylor, "Mr. Parish would say 'yes,' nodding his head; he would say 'no' sometimes, shaking his head violently. He would say 'yah, yah, yah,' generally holding up his hand with the two fingers extended; another one he would say 'yea, yea, yea,' when it was yes; he rarely said 'yes' more than once, and then it would run into 'yea;' I am not certain," continues Dr. T., "whether there was any gesture with that, he used his hand so constantly it is difficult now to say with what words he associated the motion of the hand; he would say 'nay, nay,' as a continuation of 'no,' and it would run off into an indefinite sound expressive of despondency; it was accompanied by a shaking of the head; I don't know of any thing more." (I. f. 3422, '3, '4.) According to the same witness, he never said

'yes," and stopped—"he generally repeated the affirmative answer," falling "off into yea, yea—yea, yea," and also the negative, as a general thing, he would run on into repeated "nays." Dr. T. when asked if he had ever heard Mr. Parish say "no" or "nay" simply once, and not run on or continue repetitions of sounds, answers "I cannot say positively that I ever did." (I. f. 3424, '5, '6.) Mr. Daniel Lord, in alluding to his first interview with Mr. Parish, August 29, 1849, and to addressing him on the subject of the first codicil, says, "I asked him in the same address to him if it was his wish to execute it. I think he made a sound with his mouth, and nodded assent. His articulation was difficult and uncertain." (I. f. 98.) At the period of executing this same codicil on the 17th of December, 1849, "he answered the word 'yes' much more articulately than he did or could do when I had seen him before, and accompanied it with some inclination of the head." "He uttered 'yes,' unmistakably; but not so distinctly but that his speech seemed to be obstructed." (I. f. 147, '8.) At this interview Mr. Parish also made that mode of expression which was interpreted as a want to communicate something, and sometimes as a sign of inquiry. "I can't," says Mr. Lord, "well imitate or describe it. It was a continued repeating articulation of the same sound." (I. f. 166.) In the interviews for preparing the second codicil, particularly that of September 13th, 1853, Mr. Lord recollects no other word, sound, sign or gesture than those above enumerated, to which he could attach any particular sense or meaning." (I. f. 381, '2.) But he adds, "The sounds indicating 'no' or 'yes,' or interrogation, were used by him with considerable variety of modulation; he accompanied them all occasionally with moving of his head and the use of his hand in connection with interrogation; his countenance also had expression which I at-

tended to and regarded." (I. f. 382.) In the interview for preparing the last codicil of June 15th, 1854, Mr. Lord found nothing to add to the former list of sounds or audible expressions, except some sign or sound, which according to Mr. Lord's opinion, "indicated a hesitating acquiescence." He says, "I cannot imitate the sound, because it was not a well articulated sound; the mode of his intonation indicated hesitation," etc. (I. f. 447.) On the other hand Mr. Kernochan (who more than any other individual witness was intimately acquainted with Mr. Parish), says when asked if the latter had uttered a word since his attack in 1849, "I have heard him make a sound, accompanied with a nod or shake of the head, as affirmative or negative; with my hearing (and he elsewhere admits that his hearing was not so perfect as in his younger days, I. fol. 967,) there never was any distinct articulation in any case, not even a single word; the sound was always very much alike, though sometimes louder than at others." (I. f. 847.) Besides the nod and shake of the head, says Mr. Kernochan, "he had a motion of his left hand which he used in connection with a sound, a continuous sound; and sometimes when more vehement than at others, he would put his two forefingers in his mouth, his mouth being open, and the sound being continued until sometimes it was stopped by the intervention of the fingers; that was the universal motion, waving the left hand with the two forefingers extended; the other two closed in the palm, back and forth across in front, terminated generally by putting them in his mouth; the continued sound was like 'nin, nin, nin;' the sound was always the same, but sometimes more rapid and louder than at others; if it could be spelled at all, it must always be spelled by the same letters." (I. f. 848, '9.) "As to the sound and the motions with the hand," adds the same witness, "I certainly never un-

derstood them; I was told that he wanted to be informed of something; I attached no definite meaning to them of my own observation." (I. f. 849.) "I was told that was his object, but I never could make it out with any certainty myself; I frequently acted on the suggestion that he wanted to make some inquiries, and would go on to communicate whatever I thought would be interesting, but was never perfectly satisfied that I had hit the object." (I. f. 850.) In the carriage visits of Mr. and Mrs. Parish to the counting room, says his clerk, Mr. Folsom, "We always made great efforts to find out what Mr. Parish wanted, but never, to the best of my memory, has Mr. Parish ever been able to convey his wishes to me to my satisfaction." "On coming before him he would always put up his hand, raising it with the two forefingers extended, and the remaining three partly closed, or sometimes two, shaking it as he raised it, and then turning it over, putting the tops of the fingers downwards, with the same shaking motion accompanying it with a sound from his mouth, which the letters a s e would express more nearly than any others; these motions of his would become more violent as Mrs. Parish, in trying to express what he meant, failed to do so; the voice might cease or might be continued in the same manner; as he became more excited the a s e would become more emphatic and loud; I do not mean to say that the shaking motion was involuntary, nor do I say it was voluntary; I know not; the motion was such as I might make if I should say, 'you do not understand me.'" (I. f. 1181'2'3.) These motions terminating, "he would eventually fall back, or lay back, apparently giving it up, apparently perfectly placid, and seeming to have no further effort to make." (I. f. 1183.) The waiter, Michael Quin, who was in Mr. Parish's family as a servant from November, 1848, till December,

1849, says of Mr. Parish after that attack—"If he wanted any thing when he was that way, all I heard him say was a noise in his throat, accompanied with a nod or shake of the head." And when asked if Mr. Parish, in his hearing, had made any other sound with the voice, throat or mouth, he answers "no." (I. f. 1810.) The butcher, Whitfield Case, with whom, during his dependent condition, Mr. Parish was in the habit of marketing, says of his articulation that it was "nothing but that sound you heard come from his throat." (The witness here making a sound in his throat which the Surrogate cannot describe.) (I. f. 1895.) The nurse Simmons speaks of Mr. Parish using the sounds "nan, or yan," accompanied with gesticulations as already mentioned. (I. f. 1685.) In reference to a colloquy at the counting-room, the same witness states—"Mrs. Parish then replied that Mr. Parish wished to look over the books himself; he made a gesture with his hand, raising and shaking it, saying 'yean, yean, yean,' very much excited." (I. f. 1691.) This same sound is also mentioned by the waiter Wingrove. "He waved with his hand," says the witness, "and with his four fingers, and made different sounds such as 'yanne, yanne, yanne,' rapidly repeated; he always, when he appeared to want any thing or to hold a conversation, made that motion and sound; that was his first effort, and it was his only one." Again, says the same witness: "When I went here, to Mrs. Parish's, to live, she told me that Mr. Parish could say yes and no. I said, if so, it won't be very difficult to get along with Mr. Parish; this sound has been often used imitating yes; that Mrs. Parish told me that Mr. Parish meant yes; as a general thing, by being told by Mrs. Parish, I attended to as yes, whatever it was at that time, but it was through her orders; in a very short time after, my own experience led me to believe to

the contrary, as I often had been deceived by the word yes; for instance, if I asked Mr. Parish to come and have a little walk, and he say 'yes,' I could then know exact what to do; but Mr. Parish, when I asked him to come and take a little walk, he shook his head and made a kind of sound which you could not tell what it was; he did not seem satisfied for my asking him; on this occasion I told Mrs. Parish that Mr. Parish did not seem anxious to go out for a walk; she told me, 'Thomas, you had better go, insist upon him.' I went back secondly to insist upon Mr. Parish to come out for a walk, if possible; it was then, when I pressed upon him, that he used this—this word that I understood to be yes; according to that, I went and got his coat and hat, but when I brought the coat and hat for him to put on, he shook his head, 'yanne, yanne, yanne,' and seemed quite angry and dissatisfied that I should insist upon him; from that time afterwards I never placed any confidence in yes, either told by Mrs. Parish or expressed by Mr. Parish, because it was of no use to me," (I. f. 1544, 1545, 1546.) As to those sounds, called by Mrs. Parish "yes and no," says this witness at another place, "I have never made any use of them; they have never been of any benefit to me in my attendance on Mr. Parish; not once to my knowledge," (I. f. 1552.) "This sound resembling yes, if I were asked to write it," adds the same witness, "I should say it would be KAS, (I. f. 1549,) that is my opinion of it." As to other sounds, "There was one which was supposed, and was remarked to me by Mrs. Parish, that it meant 'no;' sometimes he got in a passion, and when he got in a passion the sound came through his nose in a manner which you would think resembled 'no,' sometimes plainer and sometimes worse, but without any meaning, to the best of my knowledge." And if asked to write this sound, he replies; "To the best of

my opinion, 'oh' would be the nearest, if any thing could be, to spell the sound," (I. f. 1550). The nurse, James Clarke, says of Mr. Parish, "He didn't use only these two sounds, 'neay, neay, neay, and yaune, yaune, yaune.'" But the same witness elsewhere adds, "When he opened his mouth, and I could not find out what he wanted, he would put his hand to his tooth, take hold of it as if he would tear it out sometimes, and would make a sound," which neither the witness nor the surrogate can express by letters, (I. f. 1765.) Clarke elsewhere remarks again, that he could discover no meaning in the sounds, "nothing but by his motions," and "by the signs with his hands pointing," (I. f. 1715,'6.)

William Brown (nurse from Oct. '51 till Nov. '54,) enumerates the several sounds and gestures; viz., a sound which he spells "ne, ne, ne," (II. f. 1310;) another, which he and the surrogate spell "hoh," (II. f. 1311;) another, which he spells nes (II. f. 1312,) "neah," "nyeh," (II. f. 1341;) "neow," (II. f. 1464;) the word, "no," distinctly on one or two occasions, (II. f. 1465.) After enumerating these, he further adds, that Mr. Parish very frequently uttered the exclamation "Oh, thear, thear!" (II. f. 1470;) on several occasions, the words "why, yes," or as near that as possible, with a smile, (II. f. 1471,) and the exclamation, "Oh, Got, Got, Got!" "I should say that was about it, as near as possible," (II. f. 1472.) Of the habitual gestures, the same witness says, "One was raising the finger and shaking it thus: [The witness here raises his hand with the forefinger extended,] accompanying the same with the sound, 'ne, ne, ne;' another, was bowing his head without a sound, as of yes; another, shaking his head, as of no, from side to side; another, the expression of yes, with a motion of the head downwards, and with the left hand downwards with an open palm; if excited, he would put his head down in the same way, with the sound 'neow,'

that's all, I think, that constitutes the general routine of sounds and actions accompanying each other; he also, when he said, 'Oh Got, oh Got,' raised his head, looking upwards, and also his hand open and raised upwards; I have named all his habitual gestures," (II. f. 1474–5.) The coach man, Edward Clarke, (always in the family,) says, "It was a regular thing for the valet to come out every morning betwixt nine and ten o'clock, and say, 'Edward, Mr. Parish wants to see you this morning.'" "On entering and finding Mr. Parish seated, Mr. Parish would say 'neay, neay,' with a nod of the head and a smile on his countenance." "He would look me straight in the face and hold up his finger and say, 'neay, neay, neay.' I would say, Mr. Parish, you want to know how the horse is? he would assent by a nod of the head; then he would hold up his fingers again, and say, 'neay, neay, neay, neay;' then I would say, Mr. Parish, you want to know if I have plenty of feed? and he would answer with a nod of the head, 'neay, neay,' and then I would say, I have plenty of feed; then he would hold up his fingers again, just in the same way, and say, 'neay, neay, neay,' or, 'aney, aney;' then I would ask him if he wanted to know if the carriages and harnesses were all in good order, and then he would nod his head and smile on his countenance and say, 'neay, neay;' then I would say, good morning, Mr. Parish, and he would nod his head and say, 'neay, neay, neay;' well, that was the regular conversation every morning that he was not sick, that is, when I could see him when he was not in bed." The same witness, when asked if Mr. Parish, at these interviews, made any other motions with his left hand besides the putting up with the fingers, says, "No, never to my memory; it was just the one thing every day for the general rule; I had no trouble at all after the first two or three days; I always let him put the question himself, and I answered it," (II f. 2195–9.)

When asked whether he had seen and when he had seen Mr. Parish put his hand or fingers into his mouth, this witness says, "Yes, sir." "It was in town and out of town, both, I think. I couldn't say when; I kept no memorandum of these things; I never thought I would be called on this way." When asked if he had witnessed this motion fifty times, he says, "Well, I told you I couldn't say, because I was very little in his company." Was it accompanied with a noise? "Well, yes, sir, a kind of sound about the throat. When he would get hold of his teeth—a kind of sound—the same as if he was strangling." In describing it, (the witness here raises his hand and places the first two fingers, somewhat bent, upon the top of the lower teeth, and keeping them there, slightly shaking his head and making a guttural noise.) This would be in the presence of others? "I don't recollect any one without the valet; there might be, but I don't recollect." As to the meaning of it? "Well, I know he wanted something; it was some sign for something he wanted, I should think, but I don't know," (II. f. 2203–6.)

Mr. Leroy M. Wiley, formerly a business partner of Mr. Parish, and who was in the frequent habit of visiting him after his illness, says of his vocal sounds, "I don't think I have ever heard him utter a word of any kind that was distinct." None which, without seeing him, could be supposed to mean yes or no. (II. f. 92, 93.) And as to his gestures, "There was one motion of his hand, holding the arm out, bending the elbow, and placing the hand with the fingers extended, pointing downwards, holding it steadily so. Another motion was, raising the same hand and putting two or three fingers in his mouth—opening his mouth wide—and putting them in as far as the first joint. I believe these were the only motions he had." (II. f. 95.) He "always looked attentively to the per-

son who was sitting by him, and whom he was addressing at the time, when he put his hand in his mouth, or when he put his fingers down." (II. f. 98.)

Dr. W. V. Wheaton, surgeon U. S. A., an aged gentleman and friend of the family, in his frequent calls never heard Mr. Parish utter any distinct sound but the word "yes." It was repeated "yes, yes,"—"yes, yes." (II. f. 655, 656.) But says he, "I heard him make mumbling sounds, which could hardly be described, when he wished to assent to, or dissent from, any thing others had said." (II. f. 655.) "I think they could be distinguished when he meant no or yes, but perhaps more from the shakes of the head in saying no or yes, than by a difference, or very great difference in sound." (II. f. 659.) His yes was "always a nod of the head, and sometimes with a pressure of the hand upon the person that he was addressing." (II. f. 658.) "I have observed him shake his head when dissenting from any thing that was said; and I have sometimes seen him put out his hand as repelling whatever he didn't wish to have done. [This was a push with the open palm and extended fingers, repeated several times, the arm being raised horizontally, and the hand being passed to and from the body, the motion being from the elbow away from the left side.] With this motion Mr. Parish would shake his head "very emphatically; that was when he was irritated;" and, adds this witness, "I would say I have seen him strike his him [hand] upon his thigh at times; [the witness here strikes his hand upon his thigh several times in repetition;] I don't recollect any thing else." (II. p. 228, f. 660, 661.)

Major Richard Delafield, his brother-in-law, when asked "How distinctly did Mr. Parish say 'yes' and 'no?'" replies, "As distinctly, to my understanding, as that gentleman who asked me the question. The sound of his voice, and the articulation, I can better

explain, by saying that the sound came from him as a person who lisped, or the tongue was tied; but it could not be mistaken; in all my business with him, I could not be mistaken, as to his 'yes' and 'no,' any more than from other persons." (II. f. 1795, 1796.) Among the other sounds to be spelled, "Not so satisfactorily to myself; but I would say an exclamation of 'ah,' and the sound of 'nan,' possibly would give an idea." (II. f. 1827, 1828.) And as to gestures, when other persons were conversing around him, there would be "strict attention on the part of Mr. Parish." "At the conclusion of a sentence on the part of one of these gentlemen, for example, Mr. Parish would look most inquiringly in the eye of the party, at the same time raising his left hand, with the forefinger of that hand motioned towards the person who had been so addressing, and making a sound of the voice, which would be followed by prolonged conversation, in explanation of the subject talked about." (II. f. 1794, 1795.)

Mr. Henry Delafield says, "I have heard him say, 'yes,' 'no,' 'oh dear,' 'ah,' that is all I recollect at the present moment," (III. f. 132.) But this witness differs in his evidence in one respect from nearly all the others. When asked if Mr. Parish, in saying "yes," uttered it repetitiously, he replies, "I can't call to mind that he did; I recollect no repetitious sound," (III. f. 316,) and the uttering of "no" was also, he says, "singly." "I do not recollect," he adds, to have heard it repetitiously, (III. f. 316.) But in the manner of utterances, "They may have been more distinct at one time than at others," (III. f. 317.) As to "yes" and "no," the witness however elsewhere admits the utterance would be, "generally, singly, 'yes' and 'no;' occasionally it would be repetitiously," (III. f. 420.) He speaks of the following gestures: "Raising his hand and pointing to the bell was one gesture; raising his hand and

pointing to the window, pointing to a person; raising his hand also in this way—[the witness here makes the following motions: one, raising the hand with the arm bent at the elbow, and the palm facing outwards, the hand being open, and pointing upwards; another with the hand in the same position, with two fingers bent inwards, and two extending upwards, the latter two being the index finger and the next, the palm being towards the body.] When suffering pain he would raise his open hand and let it fall on his thigh, his countenance expressing anguish or sorrow, or some feeling of that kind; another sign, when it was wished to know how much money he wanted, he would raise his hand with the palm upwards, and the hand bent so as to form a hollow, holding the same near his breast, moving it slightly, and making a sound, when Mrs. Parish would ask him how much money he wanted; I have also seen him take his left hand, and with it raise his paralyzed arm and hand, and holding the right hand in the hollow of the left, and evidently trying to arrange and move it, so as to make a larger hollow by means of both hands; that would take place when Mrs. Parish had not succeeded in ascertaining the amount of money Mr. Parish desired; she would then put more questions as to the amount, until she arrived at it; another motion was, when Mrs. Parish and myself failed in ascertaining his wishes, he would let his open hand fall on his thigh, and throw his head back, giving it up in despair; these are all the motions I can call to my recollection at present; I may add to the above, he would shrug up his shoulders at the same moment," (III. f. 132–5.) When asked if Mr. Parish ever put his finger to a particular figure on the face of his watch, he replies "no," and when asked if he ever performed the process of comparing his watch with that of witness, he says "I have." "He would take

his watch out of his pocket, he would look at it, then at me, make an attempt to speak; that is the manner I believe," (III. f. 321, '2.) This was not of frequent occurrence, It was subsequent to the attack of July, 1849, "probably about a year," (III. f. 325.) When asked to describe Mr. Parish's manner of putting his fingers in his mouth, the witness puts the first two fingers of his hand between his lips, resting the ends on his teeth and lower lip, and states that this motion "was not habitual," and was accompanied with "a sound of inquiry, Mr. Parish looking attentively at the person who was speaking to him," the sound being "continuous for three, four, or five seconds," (III. f. 326.) Again, "he would look at his servant, point, put his finger up to his teeth, attract his attention to his teeth, and the servant would pick his teeth, clear his teeth," (III. f. 327.) And "money being on the table, having been handed to him, he would count it in this manner, [taking up a single coin and placing it apart, and then another in the same way, putting it with the piece already placed apart, and so on through the whole pile,] and then take it all up and put it in his pocket," (III. f. 327, '8.) He also counted coupons. "The coupons having been cut off by Mrs. Parish, they were placed before him, and he went through a motion the same as in respect to the money, picking up the coupons one by one and placing them together," (III. f. 328, '9.) The motion with the hollow of the hand indicating the want of money, the witness may have seen, "half a dozen times or more; it might have been less." In drawing a check for house expenses, if Mrs. Parish chanced to ask whether it should be for a hundred dollars, "he would hold up his hand, make a hollow, as has been described in my direct examination, and upon asking him as to the amount required, the amount he wanted, when we could not arrive at

his wishes immediately, he would take his left hand, raise up his right hand, and make the hollow of the two hands deeper," (III. f. 330, '1.) "Mr. Parish," says the witness, "would point to the drawer, his books would be handed to him, open the check-book; point at his wife, when she would ask him if he wanted a check drawn, if it was for Dr. Taylor, he would nod his head and say, yes; a check was drawn by Mrs. Parish; the check was handed to me sometimes by Mr. Parish himself; I would ask him if I should draw it in gold, he would nod his head and say, yes. In the evening when I came home he would look at me, make an inquisitive sound, when I told him I had brought the money and handed it to him; sometimes he would put it in his pocket, having previously counted it in my presence," (III. f. 120, '1.) With regard to money, the servant Wm. Brown (the nurse from Oct. 13th, 1851, till Nov. 12th, 1854) says of Mr. Parish, "I have never seen him with money in his pocket." "The first of January, 1854, from his own hands he gave me $100 as a present; I never saw him actually give or pay any other money, not with his own hand." "It was in gold." "It was given me in the dining-room; Mrs. Parish was present." "Mrs. Parish brought in the money, rolled up in paper, placed it in Mr. Parish's hand, and then said, as far as I can remember, 'William, Mr. Parish is going to make you a new-year's present.' Mr. Parish handed it to me." (II. f. 1422–4.)

Dr. Markoe, when asked if Mr. P. could at any time and for what length of time utter "yes," distinctly, says, "He did so for many weeks in the early part of his illness utter it distinctly, to my perfect recollection." "I do not know whether he lost the power; he ceased to do it, to my knowledge, during the first six months I should say; I do not remember how early after his attack I first heard it." As to

having heard it after the lapse of six months, " I cannot be sure; I think not." As an equivalent for it after that time, " I think he sometimes used the articulate sound 'niah, niah,' which has been described as 'yes,' but more commonly his sound of assent was like 'humph,' as it is usually spelled, with a falling inflection of the voice, (II. f. 2076, '7.) The word " no," " He never uttered as distinctly as he did the word 'yes'; it was more like 'nan, nan,' and continued, I think, about the same time as the use of the word 'yes' continued, as near as I can recollect; I mean about six months." The substitute afterwards employed for it was, " A sound somewhat similar, but more approaching the 'niah, niah,'" (II. f. 2078.) The words " oh dear," were heard " Only on one occasion, and I think it was in the October illness," (II. f. 2078.) The only variation in the sound " niah," " was the substitution of 'nin, nin, nin,' a more sharp short sound." As to " nin," and " niah," " I think he used them somewhat interchangeably, but I don't remember distinctly." They were used " always repetitiously, I think." " My impression is, that he used the 'yes' and the 'nan' singly at times; but my recollection is not distinct enough to say positively." He commonly spoke each of them repetitiously, (II. f. 2078–80.) As to other articulate sounds, " I do not remember any," (II. f. 2081.) " He used the ordinary inarticulate sounds, groans, and guttural noises which patients use that are suffering much." " I remember his interrogative sound; the rising inflection of the voice was very distinct on all occasions," (II. f. 2000.) " A sound something like this frequently repeated with a rising inflection of voice."—[The Surrogate here describes the sound made by the witness, as emh, as nearly as he can approximate it.] (II. f. 2083.)

Speaking of gestures and motions of the limbs, Dr.

Markoe says, "I observed all the motions of the head performed with great ease; all the motions of the lower extremities performed, however imperfectly; walking, rising, sitting, and all the motions of the sound side were normal." "There was the shake of the head and nod of the head." "The left hand and arm were constantly used in connection in making gestures, one very common was a raising of the hand and arm, with the fingers elevated, turned up—this was either shaken when the attention was to be emphatic, or it was held out towards the person addressed apparently with the intention of drawing attention, as the fingers were was held out separately, one, two, or three together, and the arm moved up and down; I don't think of any other gestures now, except one, which was, striking his own thigh forcibly, with his hand flat, when he was disappointed, or when he could not make himself understood, or when we could not understand him, more properly, (II. f. 2001, '2.) The principal gesture he made was holding up his left hand with the fingers in the air; it was used, apparently, for calling attention, to give emphasis, and in various other ways; he would also point with his finger and his hand. I have seen him point to the window, to the mantelpiece, and more particularly to those organs of the body in which he might be suffering pain at the time." "This motion of holding up his hand was usually accompanied with the articulate sounds, and the interrogative and negative sounds which were inarticulate. I think it was more particularly associated with the interrogative sounds." (II. f. 2086, '7.) Mr. P. M. Bryson, cashier of the Phœnix Bank, states, that on the 22d of August, 1853, "In reply to my question as to whether he wished Mrs. Parish to sign the articles and receive the new stock, he nodded his assent, aud I think, replied 'yes.'" It was distinctly uttered, though perhaps not so

plainly spoken as I would speak it here." It was with "An immediate repetition, 'yes, yes,' deliberately." And "As to the question of signing the articles of association and the issuing of the new stock, my impression is, he said 'her,' pointing to his wife." "As to the frequency of saying 'her,' I don't remember how often; once, certainly." "I think it was not repeated, but accompanied by a motion of his hand towards his wife, [the witness here in describing his motion, extends the arm and hand horizontally with the hand open, waving it laterally and then vertically several times as extended,] (II. f. 342 to 346.) Mr. J. S. Dunning, note-teller in the Phœnix Bank, witnessed the transactions referred to by Bryson, the witness last referred to, and states that he heard Mr. Parish utter the two words "yes and her." The one of these words this witness would write "Herrh," and he says, "there was a kind of aspiration after the word seemed to be finished." As to the word yes, "It was uttered as distinctly as I could utter it. There was rather a harsh sound given to it, as if he made the word up with an *a* and an *e* together," (II. f. 432 and 437, '8.) William Youngs, builder, working frequently for Mr. Parish since 1847, and having had frequent interviews with him after the attacks, and borrowing money on bond and mortgage, both for himself and his friends, says of the sounds or words uttered, "Well, for yes, it would be 'eh, eh, eh,' as well as I could describe it, with two or three nods of the head, sometimes more earnest than at others; and for no, it would be a shake of the head, and the sound 'nah, nah, nah, nah.'" "When it was a matter of inquiry it was a different sound and a different shake of the head; the sound was 'esh, esh, esh, and an eh,' and a different shake of the head; I don't know how I can give it any nearer." "I don't recollect any other sounds but these three I have spe-

cified," (II. f. 710,' 11.) Thes ound "eh, eh, eh," as understood by the Surrogate, this witness says, "I would spell uh, uh." The sound accompanying the shake of the head, he would spell, "nan, nan, nan," and as to the sound and gesture of inquiry, the witness says, "He often put up his hand and fingers in that way in saying yes and no both; but when a matter of inquiry with him, the sound was 'nin, nin, nin,' as near as I can pronounce it and spell it," (II. f. 742, '3.) Of this peculiar gesture the witness also says, "At times, there was a movement of, I believe, the left hand, and one—two forefingers elevated, with the palm of the hand towards the fall, the fingers pointing upwards, diverging, and the other fingers closed, and he looking at the fingers and then at me earnestly, at times." (II. f. 712.) As to the number of fingers usually elevated, "To the best of my recollection, it was two generally; sometimes one—it may have been three; but I have no recollection of it, (II. f. 741.)

12th. *Senses of Feeling, Hearing and Smell.*

With regard to the external organs of sense—feeling, hearing, smelling—they do not appear to have been seriously implicated further than has been already stated. "The only one of the senses that seemed to be impaired," says Dr. Markoe, "was that of vision, and that only at a certain time or period, but not constantly or essentially injured." (II. f. 1992.) As already shown, however, he admits in another place that sensation of feeling was slightly impaired in the paralyzed members (II. f. 1984) of the hearing, Mr. Kernochan says, "I think it was very good—much better than mine." (I. f. 970.) "I considered his hearing very acute," says Wingrove. (I. f. 1583.) "The hearing," says Clarke, "was pretty good; sometimes, if you did

not speak to him pretty loud, you would have to speak again." (I. f. 1782, '3.) The sense of feeling was not lost, according to Dr. Delafield, in the paralyzed limb. But we have seen it was less acute then than natural. The servant Clarke, on duty from December, 1854, till April, 1855, was in the habit of trimming Mr. Parish's nails; and, says this witness, "he would make me cut and cut until almost I had drawn the blood; sometimes I would; he would not feel me; Mrs. Parish would come and say, 'Mr. Parish, don't have them cut so close,' and he would give her a push, saying 'neay, neay.'" This occupation of trimming the nails was of frequent occurrence; and on two occasions the same witness drew blood from what he calls the "dead," or right hand, and on these occasions Mr. Parish would not feel the cut." (I. f. 1772.)

As to the sense of smell, there is an allusion to it by Wingrove, who says that Mr. Parish, in examining his pantaloons, "would take them separately, take one at a time in his hand and put it to his mouth; he always put it to his mouth; I thought it was to smell; and he would say quickly, "yanne, yanne." (I. f. 1510.) This witness was led to think such to have been Mr. Parish's intention "from the fact of putting it so near his nose; it's what any person would have thought at the time as well as I did." (I. f. 1605.) In visiting the butcher's shop, says Wm. Brown, "If there was grouse, or woodcock, or quail, or those kind of things that he selected, he would take them in his hand, poise them, and show them to the person who presented them, or was by—that would be either Mr. Case, Mr. Vandewater, or myself—and inquire if they were good, and what was their cost; and also make a sort of inspection himself by smelling them." (II. f. 1309, '10.)

13th.—*Capacity to Read and Write.*

The condition of Mr. Parish's sight both before and after the paralytic seizure has already been the subject of remark. We have seen that his left eye had probably never been of any use to him, and that the operation upon this organ was rather injurious than beneficial. The operation upon the right eye, in which the cataract had been only of recent formation, proved much more successful, and restored to him a fair amount of vision; which, according to Mr. Kernochan, was even better for some time after than before the occurrence of the paralysis. (I. f. 956, '7.) But from the fact that Mr. Parish ceased to look at the newspaper and other papers, Dr. Delafield is disposed to think there must have been some falling off in vision perhaps for the last four years of Mr. Parish's life. (I. f. 2077 and 3239.) This impairment, if real, must have commenced after the patient had been complaining of his vision, and of what was presumed to be floating motes before the eyes, and which occurrence was some eighteen months or two years subsequent to the attack of paralysis. (I. f. 2075, '6, '7.) Dr. Delafield is not aware that he ever saw Mr. Parish reading the newspaper after the attack earlier than 1850. He has seen him with his tin box before him picking out papers and looking at them, "say six times, probably much oftener." This reading Dr. Delafield thinks was within eighteen months after the attack of paralysis, and was not witnessed within the last four years of Mr. Parish's life. (I. f. 3243–6.) Mr. Lord states that on the 29th of August, 1849, on the occasion of executing the first codicil, "his vision did not appear to be unimpaired; one of his eyes, I think, exhibited difficulty, and the other did not seem perfect; but I have no doubt that

he saw and recognized the persons whom he knew, and who were present. It so appeared to me." (I. f. 125.) "I understood he could distinguish dates and figures to some extent; but I have had no communication on the subject of his reading that I can recollect." That Mr. P. could distinguish dates and figures, Mr. Lord ascertained from one of the Messrs. Delafield, perhaps both at different times." (I. f. 496.) "In passing the City Hall," says the nurse Wm. Brown, "he took out his watch and compared it with the City Hall clock; on going home he would compare his watch with the clocks at home." (II. f. 1383.) "When he was going out in the carriage he would put his finger and thumb in his pocket and pull out his watch and indicate the time with a motion of his thumb or finger on the watch, having the watch in his hand." (II. f. 1382.) After the attack and after Mr. Parish was up, Mr. Kernochan had conversed with Mrs. Parish on the subject of Mr. Parish's ability to read and write, "and understood from her that he could neither read nor write; I don't mean," says Mr. K., "to say that he could not know the letters—some of them—but that he was not in the habit of reading; I suggested to her that it would be a kind of pastime to him if he could read; I also remarked that it would be very easy, he then having the use of his left hand, to learn to write with his left hand; I also suggested taking a dictionary and referring to the words, his looking up the words and pointing to them to construct phrases and sentences, by which it would be known certainly what he wanted to communicate; I made these suggestions several times, but I do not know that they were ever attempted, either of them." (I. f. 874, '5.) "I don't know that I ever saw him attempt to read any thing." (I. f. 875.) "It does occur to me that I have seen him with a newspaper in his hand, but he did not appear to

look at it as if he were reading." (I. f. 876.) As to Mrs. Parish's reply to the proposition about writing, "I don't distinctly remember the words she used, but the amount of it was that he would not take the trouble;" (I. f. 876;) and in reference to the dictionary, "the answer was very much to the same effect;" (I. f. 877;) and as to using block-letters for the same purpose, "I am not quite certain whether I ever suggested that, but she told me they had been placed before him, and that he brushed them off with his hand or arm." (I. f. 877.) Again, in reference to recommending the use of the dictionary, "It was certainly in a belief that he could see, and if he had mind enough that he could find the words." (I. f. 968, '9.) As to writing, "I never saw him try, and I never saw any specimen of his performance in that way, that I know of." (I. f. 970.) "I have an indistinct recollection to have seen a paper, and I don't know what paper it was, that purported to be signed by him; I could never have made it out to be his name, and I don't know what instrument could have been used in making it." (I. f. 970, '1.) "His sight," says Wingrove, "was a good deal impaired, but he could see to a very great extent; that is, for instance, if we were walking around the room, I often saw Mr. Parish in the presence of Mrs. Parish, point to the carpet to a small little piece of paper, or a little bit of dust, dirt, or any thing that you might think that he would not discern." (I. f. 1648, '9.) As to read, however, "I have every reason to believe that he could not. He never made the slightest attempt at any letter or word that I could understand as reading." (I. f. 1649.) The cards of visitors, however, when placed in his hand, according to this witness, he often looked at a considerable while." (I. f. 1587.) "His eye-sight," says Clarke, "was not, I think, very good." "I have seen him take straws,

point to straws with his hand, saying 'neay, neay, neay.'" (I. f. 1775.) There appears to have been an attempt to teach Mr. Parish the use of block letters for communicating by words with those about him. The waiter, Michael Quin, who remained in service in the family till December, 1849, says, "I saw them in his room on a small table; I did not see exactly what they were. I asked the nurse what they were. He told me that they were block letters; that Mr. Richard Delafield brought them to Mr. Parish." "I saw him after Mr. Delafield leaving them before him, put his hand on the table and throw them off." "They looked to me as if they were a lot of dice." (I. f. 1810, '11.) In reference to Mr. Parish's attempts at writing, Dr. Delafield says, "There were frequent attempts; the first that he made was under my own direction; he seemed shortly after recovoring his senses after the first attack to be anxious to communicate something, and this was repeated from day to day; not being able to understand it, not having become so familiar with his modes of communication, I tried the experiment whether he could write; I presented to him, I am not quite sure as to the real object, but my impression is it was a book to write on the fly-leaf; and as I or some other person held the book, I am not certain; at all events the book was held before him under my direction; he began to write with his left hand with a pencil, and he made characters; this experiment was tried several times; certainly on paper more than once, and my strong impression is, on a slate several times; the characters were always the same, and were construed to mean the word 'wills,' sometimes commenced and the word partly finished, and then beginning again; that is all as to that period." (I. f. 3044, '5.) As to the time of the occurrence, he adds, "I presume it must have occurred after I returned from the country, about

the 15th of August, [1849;] I am not absolutely sure that it did not take place prior to my going into the country on the first of August, bnt the latter is very improbable." (I. f. 3049, '50.) Again, "Some time I think in the course of the winter after his attack," says Dr. Delafield, "I took and caused to be taken a great deal of pains to induce him to write with his left hand; the first attempts were limited to his writing his name, and in this to a certain degree he succeeded; he wrote his name so that it could not be mistaken as being his more than once; but in most of the after attempts his hand would seem to tire before finishing the entire name; the process was a very difficult one to him, and as I would urge it upon him from day to day, he would become more and more disinclined to try, and eventually declined further attempts; these trials were made also at other times in consequence of my directions." (I. f. 3051, '52.) Some of them with pencil and paper; some of them with slate and slate-pencil. (I. f. 3250, '52.) With the first, two, three or four trials were made; (I. f. 3250;) with the second, probably not more than two; (I. f. 3253;) on the same or on some other following days. (I. f. 3254.) The characters on the paper were large, "from three-fourths of an inch to an inch long, as far as I can call to mind;" (I. f. 3252;) each word with the pencil and paper taking "possibly one or two minutes." (I. f. 3251.) "Such characters as these made with the pencil," says Dr. Delafield, "have been shown to me since Mr. Parish's death, by Mrs. Parish, but I cannot identify them." (I. f. 3256.) "At another time," says Dr. Delafield, "a black board was brought to the house, but whether I tried that I am uncertain." (I. f. 3262.) "He would write as far as H Par, or thereabouts, and then the hand would be unsteady and the word not be finished." (I. f. 3262, '3.) He wrote his name H. Parish, cer-

tainly twice. (I. f. 3263.) Copies of his own name were made for him to imitate on some of these occasions, "but not at the first trial when he wrote his name," (I. f. 3265,) that is to say, the first day of trial. For when questioned, Dr. Delafield cannot say whether Mr. Parish failed or not; several times before he wrote H. Parish. (I. f. 3266.) The Rev. Dr. Taylor, also, at an early state of Mr. Parish's illness recommended the use of the black-board. "At first he said 'yea, yea,' nodding his head that he would; afterwards upon renewing the subject, he said 'no, nay,' very despondingly, as being past hope." (I. f. 3434, '5, '6.) Simmons, who nursed Mr. Parish from Dec., '49 till Oct., '50, also bears witness to the attempts at writing: "Mrs. Parish wrote his name with a slate-pencil, and told Mr. Parish to try and write; after being persuaded a little while he tried to do it, but I don't think he ever wrote any thing distinct, I never see it." "This slate attempt, I suppose," says he, "was followed up for about two or three weeks." (I. f. 1712.) The Rev. Dr. Taylor thinks he saw Mr. Parish reading the newspaper "within the first year of his illness;" (I. f. 3411;) and again, "about eighteen months or two years preceding his decease." (I. f. 3411.) In all "two or three times," (I. f. 3413,) and at the utmost at any given time, "from five to seven minutes." (I. f. 3414.) He also thinks that Mr. Parish could at times follow the communion service in the prayer books. "Places were found for him, and as soon as they were pointed out, he would nod his head to show that he understood; I," says Dr. Taylor, "would, on such occasions, wait until I saw that Mr. Parish was prepared to go on with the service; Mrs. Parish standing or sitting by his side, would point out the places and turn the leaves." (I. f. 3403, '4.) "In the latter part of his illness I should say he discontinued the use of the prayer-book,

before that he did read it always." (I. f. 3403.) Mr. Charles A. Davis, a familiar friend of the Parish family, and often with him, and who acted as witness to the codicils of September 15th, 1853, when questioned as to Mr. Parish's ability to read, gives hearsay statements of others to that effect, implying even that Mr. Parish could detect errors in his account-books, (I. f. 610, '11,) and that he was in the habit of reading the newspapers. (I. f. 612.) But he acknowledges he had himself never seen Mr. Parish reading any thing, or make any attempt to write any thing except on the occasion of signing the codicil. (I. f. 603, '4.) It does not appear anywhere in the evidence that any one ever knew him to detect an error in any account.

William Youngs, the builder, was in the habit of rendering his accounts semi-annually. When asked if he had ever seen Mr. Parish reading, says, "He took my bills, and held them up before him; I don't know whether he read them or not; he seemed to me to be looking at the amount of the bills at the foot—the gross." He did this "twice or three times, I think, twice, certain; I believe three times." "Sometimes he would stop me in the reading of the bills by an earnest look, and an 'eh, eh, eh,' as near as I can describe it; I would then ask him if he wanted the bill explained; he would say 'yes'—nod his head 'yes.'" This occurred "three times, to the best of my recollection; on three separate occasions;" (II. f. 699;) "I can state two, and I believe three." (II. f. 772. On one of these occasions in which the witness was thus interrupted, and, as he supposed, for giving an explanation, it turned out that Mr. Parish could hardly have interrupted him for that purpose. "The time that Mr. Parish had a fit or spasm, when I was reading a bill, was when I called for the money after the bill had been left there some two weeks; the other instances

of my reading, I believe, were when I presented the bills, to the best of my recollection." Before the fit occurred, when stopped, he is asked whether he attempted to make explanations to Mr. Parish; and he answers, "I did." And at this time in the reading of the bill: "To the best of my recollection, it was nearly completed." (II. f. 772, 774.) When asked, "Besides that looking at the bills, did you ever see him read, or attempt to read?" he answers, "No, sir." (II. f. 750.) He states "it was difficult to make him understand, because he couldn't talk." (II. f. 775.) In making suggestions to him, "sometimes it was a no we got; it didn't follow it was a yes; the longest time I recollect might have been from half an hour to an hour that I was trying, or we (Mrs. Parish and himself) were trying to find out what he wanted; it was not usually as long as that; that was the longest time; ten minutes would probably be nearer the usual time I was so engaged." He is asked, "Can you now remember how often you came away from an interview with Mr. Parish, supposing that you had not arrived at his meaning or ascertained his wishes?" and he answers, "I cannot tell how often." "Did he on any of these occasions, when thus repeatedly questioned or suggested to, fall into tears or weep?" and the answer is, "He did several times." When asked, "Did you ever see any thing written on a paper or a slate, and handed to him, or put before his eyes, as if to be read by him?" he says, in answer, "I never did." (II. f. 779 to 781.)

William Brown (nurse from October 15th, 1851, till November 12th or 15th, 1854, and since about April, 1856, the keeper of the New York Eye Infirmary) says Mr. Parish's right eye was good. (II. f. 1374.) When cards or notes were brought in from the door, "he would sometimes open the notes, and

place them on the table again." (II. f. 1374.) While this witness was reading the news to him, "If there was any thing in the paper that Mr. Parish wished Mrs. Parish to see, the paper was laid aside by his own side; on her making her appearance, Mr. Parish would show the paragraph or part he had been interested in; show the paper to Mrs. Parish, and point out the part that had interested him; Mrs. Parish would read it; if it was a death, he would make inquiry, and Mrs. Parish would go into a description, or give an account of the person, his or her family." (II. f. 1316.) The witness has seen Mr. Parish looking at the newspaper, "as long as it would take a man to look at the date, or to pick out a certain paragraph for me to read." "I should say from one to two minutes." "I have seen him look in the Bible, visiting cards, circulars, invitation notices, and all such matters as that." The longest at any one time, "I should say five minutes." (II. f. 1500, 1502.) And as to the plans or drawings of the tomb, "I saw Mr. Parish looking at them on several occasions." (II. f. 1366.) This witness speaks of Mr. Parish's perseverance in following up an object when persons were questioning him and making suggestions; and when asked, "How long have you known the attempt to ascertain his wishes in this way continued before you reached an object to which he assented?" replies, "Three days." (II. f. 1510.) When asked, "Did you ever see Mr. Parish write with any thing—chalk, pencil, pen, or any thing else?" he says, in reply, "No, sir." Or see him make any attempt of the sort? "I don't think I ever did." (II. f. 1513.) "I never saw him write with his left hand, and I suppose, from that fact, he never could; that he could not." (II. f. 1526.) When asked, "Did you ever see any one write upon a slate, and show the writing to Mr. Parish?" he answers, "Yes, sir." About

twice—may be three times. "Both times it was in the library, and Mrs. Parish was present, and the president of the Bible House was present on one occasion; Mrs. Parish, on both occasions, showed the slate to Mr. Parish; I have no remembrance as to dates; I should say there was a third person present on each and several of the occasions, but I do not recollect whom it was." As to the name of the president of the Bible House, "I think it was Mr. Burrows, or a name similar to that." (II. f. 1527, 1528.) This witness officiated after the death of Mr. Parish, in laying out his corpse. "I dressed it, and prepared it for the coffin." (II. f. 1409.)

Major Richard Delafield, his brother-in-law, who had the supervision of the plans and drawings of the family vault at Greenwood, in which he was much engaged during 1851 and 1852, when asked, "Did you ever see Mr. Parish reading after his attack?" replies: "I have seen him with a newspaper in his hand—the newspaper of the day—apparently reading." This was rare, "very seldom, being in the morning—a time when I seldom or ever visited the family: perhaps not more than once." (II. f. 1807, '8.)

Mr. Henry Delafield, when asked, "Did Mr. Parish, after his attack, when up, generally wear spectacles?" replies: "He did." "He generally kept them on." "I was told they were cataract glasses," [glasses of very high magnifying power to supply the place of the natural lens of the eye, which is always destroyed in the operation for cataract.] "I should say they were colorless, and without side-glasses; none that I saw; they have no siding." As to spectacles, with siding used when riding out, "I never have seen such." (III. f. 251–3.) As to reading the evening paper, "Having taken our tea, and the paper not being received, Mr. Parish would point to the street-door, when

he was asked if it was the newspaper he wanted; he would say, 'Yes;' he then pointed to the bell, it would be rung, and then the servant was told to look for the newspaper, to see if it had come; occasionally it was not received; a little time after he would again go through the same course, and if the paper was there it would be brought in, and if not, he rested, and that was the end of it. He was told it was not there, and he rested from making further inquiries." (III. f. 113–16.) The paper was usually read by those around him; but, says this witness, "I have seen it frequently in his hand, looking at it as if reading it." (III. f. 115.) And this apparent reading would last "half a minute, or a minute." As to its being at any time longer than this, "I am not certain." (III. f. 344.) As to seeing him looking at other printed matter, "I have; the London Illustrated News; the printed part of bonds and mortgages, and the writing also; I can't call to mind any thing else at present." As to his looking at the London Illustrated News, "I don't know the number of times—a dozen or more; they were always within his reach when he was seated by the library table." As to his actual reading, "I think he did; I am not positive." As to the length of time at once, "Probably not more than a minute." "I think he was looking at the large print on the paper, and at the woodcuts." "I think he could not read the small type; his sight was not good enough, I think." As to the frequency of looking at bonds and mortgages, "several times," "I don't recollect the length of time; he might have been looking at it ten or fifteen minutes." When asked if it could have been as much as ten minutes, he replies, "It might have been less." (III. f. 344–47.) Again, "Letters, accounts, bills, check-book, tickler; I have seen him look at all these." The apparent reading of letters would last "two or

three, or more minutes." "I should say from a quarter of an hour to half an hour at his tickler and check-book; as to accounts, it would depend upon the length of them; some of the accounts not more than a quarter of a minute or a minute, more or less, the same as any other gentleman would look at them." When asked, "Did he continue the practice of thus looking for a considerable time at his check-book and tickler, apparently reading them, down to near the time of his death?" the witness answers, "Yes." (III. f. 349–52.) He is asked, "Did you ever see Mr. Parish write, or attempt to write with chalk upon a blackboard, with pen, or with a pencil on paper, or slate, or in any other way?" and he answers, "No." "As to the blackboard, I never saw it in his room with him; I saw such a board in the outer passage: probably I saw it twice." (III. f. 352, '3.) Besides the three exhibits numbered 11, 89, and 90, he is asked if he had seen any writing purporting to be a signature of Mr. Parish made after his attack, and answers, "I think I have seen one or two." "I am inclined to think I may have seen five in all, including the three exhibits." "All that I recollect of were powers of attorney, and satisfaction pieces, as far as I can recollect; I mean that all I remember were, or purported to be, signatures." (III. f. 354.) He was asked if he had seen Mr. P. use a slate, and replies, "I have; he tried to write on it." "Two or three times;" and he is asked whether at one or different interviews? "At different." The periods not remembered. "It was some time previous to his death." The witness thinks Mr. Parish wrote his name on the slate in his presence, "I think he did;" "I think it was H. Parish." He was asked, "Did you see his hand, unaided by any other person, write H. Parish on the slate?" and answers, "No." Or, "any other word or letter on the slate?" and again answers,

"No," (III. f. 357–62.) At another occasion, he is asked "About how long was it after the attack that you saw this attempt to write on the slate?" and answers, "To the best of my recollection, about a year or eighteen months, (III. f. 452.) He was asked, "Did you ever see Mr. Parish make any attempt to write with pen and ink or pencil on paper?" and answers, "No; I don't recollect any." (III. f. 362.) "He was asked, "Did you ever see a slate with writing on it presented to him, as if to have him read the writing?" and replies, "I think I have some recollection of such a circumstance." "I believe it was at the time Mr. Tileston was there; I don't recollect what was written on the slate." He was asked, "Did you ever see writing on a slate exhibited to him on any other occasion?" and answers, "I don't recollect," (III. f. 382 '3.)

With regard to "the alphabet, in separate letters," the witness says, "It was supposed, it was conjectured that Mr. Parish might be made to explain himself by means of them." "I suggested these cards; cards like these should be used, and went out and bought them myself, late in the evening, brought them home; showed them to Mrs. Parish, and laid them on the table, when, probably, I have no doubt some conversation did take place about them between Mrs. Parish and myself in relation to their use; I saw them used;" but he states he saw them "Only once afterwards," viz., "within thirty days from the present time," (III. f. 362–8.) He was asked if an attempt had been made to induce Mr. Parish to use those letters, and replies, "I think I have been told so, heard so." By whom? "I suppose it must have been Mrs. Parish." "I don't recollect the words." "The substance probably was his willingness to make the attempt." (III. f. 371, '2.) At the request of Mr. O'Conor these printed letters were by Mr. Evarts presented in court. They consist

of twenty-seven separate pasteboard cards, about 2¼ inches square, twenty-six being the letters of the alphabet in capitals, and the twenty-seventh being, on one side the same letters in Roman, and on the other side the cardinal numbers and the cipher 0, and the diphthongs Æ Œ, the whole contained in a box labelled "Picture Alphabet," (see exhibit No. 9, III. p. 140.) The witness was asked, "Did you ever, at any time in the life of Mr. Parish, advise Mrs. Parish, or any body else, to try any other means than those letters to get at Mr. Parish's meaning or wishes?" and answered, "I don't recollect—I don't know." Again he was asked, "Do you know of any other person having spoken to or in the hearing of Mrs. Parish, in giving any advice on that subject?" and he answered, "I don't recollect." (III. f. 375, '7.) He was asked, "When, after that period, [in which the attempts to write on the slate were made,] you attended to his executing satisfaction pieces, and witnessed them yourself, why did you write his name and take his mark, instead of getting his signature?" and he replied, "It must have been because he declined doing it himself; I can imagine no other reason, and don't recollect any; it is conjecture on my part." "I don't recollect." (III. f. 452.)

At this point it is proper to scrutinize, first, the fac-similes of the signatures known to have been Mr. Parish's, before his attack; 2dly, those purporting to be his after the attack; 3dly, the several crosses alleged to have been made by him, in lieu of signatures, at different periods after his attack [No. 89, 90, 92, 93, 94, 137, 11 repealed (at III. f. 1391), No. 232, 236, 248, 250, 262, 263;] and, above all, the fac-simile of what is called writing of Mr. Parish's (No. 264,) which Dr. Delafield says (I. f. 3044 '5) (I. f. 3255) was interpreted to mean "*wills*." These fac-similes should be also exam-

ined in connection with the evidence of the experts, Richd. W. Bleecker, Jacob C. Parsons, and Charles T. Leake, which has been offered in reference to the genuineness or spuriousness of the signatures alleged to have been written after the attack, and in reference to the manner in which these may have been executed.

Dr. Markoe, speaking of Mr. Parish's capacity to read, says, "I have seen him reading the newspaper, and have seen him looking over a store-book or pass-book always, as well as I now remember, sitting in the library, near the window. I don't know that I can specify any other circumstances." "It could not have been more than three or four times; the period of the illness I cannot specify; I think it was at long intervals." (II. f. 2014 '15.) He was asked, "How long after Mr. Parish's attack did you first see him apparently reading something?" and answered, "I can't fix the time better than by saying, 'within the first six months;'" and, as to length of time on any one occasion, "only a few moments; the print or writing was generally laid aside on my entrance into the room; I mean one or two minutes probably." He was asked, "Did you never set Mr. Parish a-reading, or try to?" and he answers, "I never did." (II. f. 2089 '90.) Again, he says of Mr. Parish, "I have seen him write; it was at our suggestion, Dr. Delafield and myself; it was in my presence; I have seen him write, both with pencil on paper, and on a slate, which we presented to him, for the purpose of inducing him to make the attempt; at first he did so with alacrity, and succeeded, particularly on the slate, in writing his name, so that it was readable; he would never try more than a few times at each sitting; he would then be discouraged, and give up the attempt, and it became more and more difficult at future sittings to induce him to make the attempt; he seemed to feel an absolute despair of any available success, and finally refused alto-

gether to try." He was asked, "How many times were these efforts repeated, and through what period did they continue?" and he answered, "Not more than three or four times, occupying a period of perhaps as many days; he became very soon discouraged. (II. f. 2015–17.) He was asked, "How long after the attack was the first of these experiments?" and answered, "I cannot fix dates; they were all within six months from the time of his attack, and, I think, after the October illness; I don't remember at whose instance or suggestion these experiments were instituted." Each attempt occupied "about half an hour, I suppose." Pen and ink were not used—"I think not." The witness was asked, "What did he write with the pencil on the slate?" and answered, "Henry Parish." As to the number of times "I cannot say; he wrote the full words, or nearly the full words, the whole name, several times; afterwards he would give up the attempt before he got through the whole, leaving it imperfect, and finally would not try any more." "I don't think he ever finished completely the last word at any time; but he wrote several times both words, so that they were unmistakable." "He never wrote the full word 'Parish,' that I remember," but, "as well as I remember, the first three or four letters; the two last were scrawls." At any one visit he wrote some part of the two words, "three or four times perhaps." This applies to the attempts also with pencil and paper. He was asked, "Did any one tell Mr. Parish what to write when these experiments were made?" and he answered, "I don't remember—I suppose so;" and again, "That any attempt made to make him write any other word than these two?" the witness answered, "I believe not." The word "Henry" was written in full?—"Yes, sir." He was asked, "Did you ever see an experiment made with the shorter designation, 'H. Parish?'" and he replied, "I may have

done so, but my recollection is indistinct about it." He was asked, "Can you swear that these experiments were made by you, or in your presence, at as many as four visits?" and he replies, "No, sir, I cannot swear that, because I do not recollect distinctly enough; I should say at more, as far as my recollection goes; I can't specify any nearer to the number than by saying 'several times,' as I have done." As to the manner, "the pencil was put into his hand, and the slate or book was held before him, or fixed upon the table before him, as the case might be; that is all the aid, I believe—all I now remember; the hand was never guided in any experiments in the slightest degree." As to copies set to him for guidance, "I do not remember." The witness was asked, "Will you say that you did not yourself personally write such a copy, and place it before Mr. Parish?" and he replied, "I will not, sir." (II. f. 2092–97.) He was asked, "Do you remember any use of the blackboard in connection with writing?" and he replied, "I have an indistinct recollection of the blackboard, but I have no remembrance of any precise writing upon it, no particular writing upon it, I should say;" and as to the trial with the alphabet, "not of my own knowledge—I never saw it tried in any shape or way." (II. f. 2017 '18.) He was asked, "Did you witness any attempt to make Mr. Parish write on a blackboard?" and he answered, "I don't remember." He was asked, "Whilst you were attending him, were you informed of any other attempt to make him write?" and he answered, "I was; I heard that he had written the word 'wills' on a piece of paper, that is all." Again, as to the block letters, or separate letters of the alphabet, "the substance of what I was told was, that they were presented to Mr. Parish, and he would not try them—would not have any thing to do with them." "I only remember that I was told letters had been presented

to him, but in what particular form I do not now recollect." Again he was asked, "Did you ever know any communication to be made to Mr. Parish by writing, as, for instance, writing on a slate and presenting it to him to read?" to which he replied, "I never did." (II. f. 2100.)

14th.—*The Power of Attending to and Understanding what was Read to him by other Persons.*

The reading of the newspaper to Mr. Parish was a daily ceremony. These readings, says Simmons, (serving from December, 1849, till October, 1850) were "seldom with me more than half an hour, but with Mrs. Parish about one hour or more." I don't think he paid much attention during the reading." As to sign or gesture during the reading, he made "To me none, and I never saw or heard any to Mrs. Parish." "He was generally in the habit of sleeping after breakfast during the time of reading the paper." (I. f. 1697, '8.) "After breakfast," says Wingrove, (serving from 1850 till September, 1851) "the next thing was to go to market; he went to market with me; the market was at the corner of Nineteenth Street, and Broadway, Case and Vandewater's; he walked there with my assistance, and with a crutch sometimes; he returned home, and I commenced to read the newspaper for him for about one hour and a half, or two, more or less, when Mrs. Parish came down stairs to relieve me." (I. f. 1496.) Again, after dinner, "perhaps he might take a little walk around the room, and perhaps not. I would read the evening paper sometimes to him." (I. f. 1503.) "Mrs. Parish told me that Mr. Parish wished to have the stocks, and the deaths and marriages read to him, and nothing more. I made no selection; I commenced my beginning anywhere, the editorial generally; that was before Mrs. Parish gave me instructions." (I. f.

1590.) Once while Wingrove was thus reading, Mr. Parish made some sound, and, says the witness, "It appeared to me as if he wanted to look for something all over the paper, and I read the headings of each article; we could not find out. (I. f. 1591.) This the witness inferred from Mr. Parish's "throwing himself back in the chair, and saying, 'yaune, yaune, yaune.'" (I. f. 1595.) "I had the paper in my hands at the time; he put one hand upon it, and he went down the paper with his hand pretty close to mine, all the way so, I reading the headings, as I stated at the time." He followed "I should say, perhaps two pages, not the columns, for he did not; but I should say the paper; his hand was flat upon the centre about." (I. f. 1596.) On one occasion Wingrove called his attention to an article in the paper concerning the Phœnix Bank, in which Mr. Parish had for many years been a director, and read the article to him four times in succession, thinking, from hearing the expression "yaune, yaune," that Mr. Parish desired him so to do. (I. f. 1598–1600.) It was the duty of Clarke also, under the directions of Mrs. Parish, to read the newspaper to Mr. Parish, and during this ceremony, says Clarke, "He was generally asleep or looking out of the window, never minding it." (I. f. 1738.)

"Having got settled in his library," says the nurse Wm. Brown (serving from October, 1851, till November, 1854,) "I would take the newspaper, the Courier and Enquirer, commence reading aloud to him; begin with the marriages, deaths, stocks, and other news in the paper, and continue reading perhaps an hour, two hours, sometimes more, sometimes less; advertisements and different matters in the newspaper; he would call my attention to parts in it that he wished to know something about." "He would point to the paper and to me, he sitting in his chair, saying at the same

time that he pointed, ' ne, ne, ne;' I would say, do you wish me to read some particular part or paragraph; he would nod with his head, making the sound I have said before, as if yes; I would then look over the leading articles and name them, and so on until I found out what he wanted me to read." "Having named the subject, I would say, is that what you want me to read; he would shake his head sometimes, take the paper in his own hands, place it on his knee, and turn it over, and at last point to the subject he wished; that would perhaps be an obituary of some person, or to some person who he heard had died; or a marriage, or an accident, or some advertisement of stock, extra stock, or some business down town." (II. f. 1313–'15.)

Mr. Henry Delafield remembers the reading of prayers to Mr. Parish, "more particularly at Hellgate on a Sunday morning, when Mrs. Parish would ask Mr. Parish if she should read the prayers to him, he nodded assent; we would assemble in the hall, all being seated, Mrs. Parish would commence the morning prayers of the Protestant Episcopal Church in the Common Prayer Book; when she came to the Lord's Prayer and read it, Mr. Parish would say it also by making a sound as if following her as she read, and so when reading the Creed in the like manner, he on both occasions moving his lips, and making a slight sound; and so when reading the Litany, he would make the same sonnd for the responses, and all in proper time." "It was generally of a stormy or rainy Sunday." Again in the evening, "Mrs. Parish would ask him if he wished the Bible read to him, he would nod his head in assent, when Mrs. Parish would read some chapters in the Bible; I would then ask him if he would like to hear a sermon read, to which he nodded assent, and I would read a sermon." (III. f. 145–'8.) Besides the Bible the witness recollected reading to him out of

some other book. "I don't recollect the name of the book; I don't recollect the number of times; I can call to mind twice; I am under the impression it was several times." When asked, "Do you recollect any other person reading any other printed matter to him?" He replied, "I don't recollect at present." But "letters, documentary papers, and other written papers, whatever they may have been at the time; his balance sheets. These were read to him sometimes by Mrs. Parish, sometimes by myself, and sometimes by my brother William." He was asked, "Was the practice of reading the newspaper to him kept up steadily until his death?" and answered, "It was, with the exception when he was too ill." (III. f. 332–4.)

15th.—*Helplessness, and constant Need of Supervision.*

Subsequent to the attack of July, 1849, Mr. Parish was never able to supply his own wants. During the whole period of his illness after that event, he was entirely dependent for the comforts and necessities of life upon those who were immediately about him; and he was never permitted to be alone. Mr. Kernochan, who "was in the constant habit of visiting the house," (I. f. 841,) says that he was never alone with Mr. Parish: "No, sir; never to any length of time; perhaps never to the extent of half a minute; I say that up to within a year or so of his death; within the last year or fifteen months of his life I have been with him alone, perhaps from one to three minutes; when at these visits we were not alone, Mrs. Parish was generally present, and in her absence, one of the Messrs. Delafield, Henry or William; it sometimes happened that I called there before Mrs. Parish had returned from Grace Church, on Sundays, and then I

found one of the Messrs. Delafield there, as I stated before." (I. f. 846, '7.) Dr. Delafield also says: "He was rarely left alone; occasionally he would be so; it was impossible to leave him alone as a general rule, from his liability to those spasms, &c." (I. f. 2091.) The waiter, Michael Quin, who served in the family from Nov. 1848 till Dec. 1849, speaking of Mr. Parish's condition so late as the period of executing the first codicil, and even after that, says: "He appeared by looking at him to be very low, just like a man who would be between dead and alive, and to have no command of mind, perhaps I might say half dead and alive." (I. f. 1804.) Again: "Pretty much the same, all through he was pretty much the same." (I. f. 1805.) The nurse Wingrove, serving from 1850 till Sept. 1851, speaking of the bed-room arrangements for Mr. Parish, says: "He went to bed about ten o'clock, sometimes half-past, or perhaps later; his sleeping-room was on the third story, in the back room." "I think the taking him up [to bed] was a pretty heavy task; the assisting was pretty heavy work for any man to take to the third story." (I. f. 1601, '2.) "I should say I carried that right side to a very great extent." (I. f. 1601.) As to his sleep: "That I can't say, as I have beed asleep myself; but I should say sound, unless he was attacked with one of those spasmodic attacks." (I. f. 1602.) This nurse himself was usually at night "sleeping by his bed-side in another bed, a cot bed." (I. f. 1498.) Mrs. Parish also, adds he, "All the time I was there," sleeping "In the further corner of the room, enclosed with a screen." (I. f. 1579.) Simmons, the nurse from Dec. 1849 till Oct. 1850, says: "After I awoke up I then dressed myself, and assisted Mr. Parish up on his chair, and then commenced to dress him." (I. f. 1683.) On rising: "The motion was with his fingers, raising sometimes one and some-

times two, and raising his hand, and uttering at the same time a sound, either 'nan or yean.' In the morning, I first commenced by putting on his shirt and drawers, and then pantaloons, and then pinning a napkin round about his shirt, and shaving him, and washing his face; and after I had got done shaving and washing him, I put on his vest, cravat, and coat; he would then, after he was dressed, make a motion again for his glasses, spectacles, a motion and a sound the same as before; I would wipe off the glasses, put them on, get him his crutch, and assist him down stairs, by lifting his right foot with mine at each step down stairs." (I. f. 1685, '6.) At a later period, during Wingrove's service, the process was nearly the same: "I walked to the bedside to Mr. Parish, told him it was half-past six, turned down the bed-clothes, put my arms around him and assisted him to the bedside; Mr. Parish sat upon the bedside whilst I put on his stockings and drawers; I then got his morning dress, put it on, and took him into the dressing-room, and commenced the operation of shaving, washing, &c.; when we got through with that, I took him into his bedroom again, seated him upon the sofa, and there I finished his dressing." (I. f. 1504, '5.) Wm. Brown, the nurse from Oct. 1851 till Nov. 1854, says: "There were two or three attacks of diarrhœa, there might have been several more or less; they might have lasted two or three days; there was a slight attack of inflammation of the bladder at one period; the appearances, I believe, wore off after four or five days; in December, 1853, I believe it was on the 8th day of the month, Mr. Parish had a severe attack, brought on by spasms, and it was six or eight weeks before he left the house." Up to the time of his illness in December, 1853, Mr. Parish slept on the third floor, but during it, and afterwards, he occupied "The dining-

room on the basement floor—about four or five months, or perhaps longer, until another room was prepared on that floor, under the conservatory." As to his movements: "If he wanted to rise from the chair, I gave my arm, and assisted him to rise; he would then take my right arm, and we would walk wherever he wished to go; he used no cane or crutch in my time." (II. f. 1298, 1301.) He was asked why Mrs. Parish slept in the same bedroom, and whether it was a necessary precaution in reference to Mr. Parish's health, and he replied: "No, sir, I don't know; Mrs. Parish always slept in the room before I went there, and therefore I made no remark upon the subject on the occasion." "Up-stairs I slept on a horsehair mattrass, in a room adjoining Mr. Parish's; down-stairs, on a sofa in the same room, at the foot of the bed." (II. f. 1431, '2.) "After rising from his bed," says the witness, "my course was to half dress him, put on his stockings, drawers, pantaloons and slippers, and dressing-gown; I did that at the bed-side; walk him into the dressing-room, prepare for shaving; shave, and then washed; he used his tooth-brush, washed out his mouth; he used the sponge and washed himself; walked into the bed-room again, sat on the sofa, and finished dressing; I made an error—the pantaloons were generally left to be put on until we came to the sofa after washing; then he would try make a sign to try the weather, see what sort of weather it was out, and have his clothes, and see what clothes he would wear." (II. f. 1303, '4.)

During the service of James Clarke, from Dec. 1854 till April 1855, the bedroom was on the first, or ground-floor, in a room off the dining-room, under the conservatory, (I. f. 1734.) "Mrs. Parish would ring the bell for me, desiring me to ask Mr. Parish if he wished to go to bed; then he would say, 'neay,

neay, neay;' then he might not go to bed at that time; sometimes he would not go then; Mrs. Parish then would come over and say to him, 'Mr. Parish, is it time, you go to bed?' then he would say, 'yanne, yanne,' and give her a push, as if he was not going to go; this was only sometimes; I would take him then when he would be ready, and bring him to his bedroom, undress him then and put him into bed; then I made my own bed; I lay on a sofa, in the parlor, [meaning the dining-room]—in the bedroom with Mr. Parish; I slept there," (I. f. 1733.) "In the morning, when I would be dressing [him], he would wish to have the windows open; would sign to me to have the window-blinds and all open; he would look that way out, and I would say, Mr. Parish, it is wrong for you to expose yourself anent the window; he would say then, 'yanne, yanne, yanne,' raising his hand, that it should be open, shaking his head; the windows then couldn't be shut, Mrs. Parish insisting they should be kept shut; Mrs. Parish came several mornings to shut them herself; Mr. Parish would shake his hand this way, and would not have it, raising his left hand and moving it towards the window, as if to have it opened, saying 'neay, neay, neay;' then Mrs. Parish, by and by, came in again, and drew over the curtains behind Mr. Parish's back, to keep the people from looking in; then Mr. Parish, by and by, turns round his head and sees the curtains drew, and has them opened again in the same way; then Mrs. Parish comes and says to him, 'Mr. Parish, won't you keep them shut?' he then lifted up his hand and gave Mrs. Parish a drive, saying 'neay, neay,' as if to push her away from him." (I. f. 1735, '6.) These things about the window "continued for about five or six weeks before I left," (I. f. 1736;) "it was about six or seven times altogether," (I. f. 1737.) During the whole of this witness' term of service Mrs.

Parish, says the same witness, also slept in this same room, behind a screen, (I. f. 1777,) and when Mr. Parish was wishing to have the blinds and shutters open, "it was before she had risen and dressed," (I. f. 1777.) "Mr. Parish," says Wingrove, "paid very little attention to his dress; he appeared to be anxious about a shirt-button, or any thing of that kind, off his shirt, that was the only thing I remembered in his wearing apparel; I dressed Mr. Parish with the instructions of Mrs. Parish, nearly at all times; if we were going any where in particular, Mrs. Parish would say to me, 'put such and such pants on Mr. Parish, Thomas, and coat also.'" (I. f. 1668, '9.) At the breakfast table, "with my assistance," also says Wingrove, "he was placed in a chair; I then pinned a napkin to his neck-tie to save the shirt, in case of drops of coffee or any thing of that kind; I left the room then, and left him in the charge of Mrs. Parish and the Messrs. Delafield; sometimes I might hand him some bread, and butter it for him; it was always buttered," (I. f. 1498, '9;) "breakfast was over when I returned, Mr. Parish still sitting at the table; I would remove his napkin from his neck, and change him to another chair sometimes," (I. f. 1499.) But at table the napkin was not always worn, "no, sir, not at all times; when his temper was up a little he would pull it off and put it down by his side on the table in a passion," (I. f. 1520.) At the breakfast table he would usually remain "from half an hour to an hour, I should say, unless that he had a spasmodic attack, which he had sometimes at the table," (I. f. 1581.) "He got to the dinner-table the same as I brought him to breakfast in the morning; I placed him in his chair and pinned the napkin before him, and cut up his dinner for him, and helped to vegetables which were on the table, and a little brandy and water; Mr. Parish got through dinner, kept his

seat upon his chair until I picked his teeth and just brushed him off a little after dinner to make him straight, and seated him comfortably in his chair," (I. f. 1501, '2.) "He used the fork with his left hand, and used it very well indeed; as to his drink, he put his left hand to the glass and helped himself, the same as any other gentleman might do, or near that; he might not carry the glass if it was full, steadily," (I. f. 1502.) "Sometimes the napkin was put on him at tea, and sometimes not; he took the cup and helped himself to tea with his left hand, and took his food with the left hand, and got through tea in that way; sometimes he might spill a little from the cup, and sometimes not," (I. f. 1503.) "Mr. and Mrs. Parish and the two Mr. Delafields," says the same witness, "were at tea together; Mr. Parish was helped to some sweetmeats, and he took upon that occasion a steel knife to eat his preserves with, and Mrs. Parish told him three or four times in succession to use his spoon, dear; and Mr. Henry Delafield, to the best of my opinion here present, expressed, 'Oh, he does not understand;' it might be Mr. William, but one of the brothers, that was the only mention I ever heard of the kind," (I. f. 1553.) "They all hung down their heads and commenced at tea, and did not speak another word till Mr. Parish got through; Mr. Parish finished his preserves with his steel knife." (I. f. 1554.) But Mr. Henry Delafield, when asked in reference to the occurrence at the tea-table, in which his own name is introduced, in connection with that of his brother William, now dead, says, "I am confident such a thing never took place," (III. f. 150.) "In preparing for dinner," says Mr. Henry Delafield, "he would make a sound attracting my attention, point down towards the cellar, when I would ask him if he wished me to bring up some wine, he nodded and then said, yes. Mrs. Parish

would then give me the keys of the closet in the cellar." "I would then go to the cellar and bring the wine up, and tell him I had done so. While he was pointing down to the cellar, he would then raise his hand, his arm, look up and point to the garret. I asked him if he wished me to bring him some wines from the garret. He said, yes. I then asked him if it should be Maderia or sherry, and sometimes I would ask him, if a friend had been invited to dine, if I should get some of his best wine; sometimes he would nod assent, and other times shrug his shoulders, as if indifferent." He was "very polite to his guests, pointing to the wine-glass in front of a guest, taking sometimes the decanter in his hand, pushing it towards his friend, when wine would be put in the glasses, the persons taking wine with him would pass the usual compliment on such occasions, when Mr. Parish would bow in answer and drink wine, each his friend and himself drink their wine." (III. f. 137–'9.)

As to the use of the left hand, "I should think,' says Mr. Kernochan, "that he began to have the use of it with some strength in thirty or forty days; before that I thought it was only weakness, general feebleness of the system; after that his fingers were as flexible, and he had as much use of his left hand as I have; better, too, because he used it more decidedly. (I. f. 887, '8.) "He fed himself with a fork in his left hand, of which he seemed to have the pretty free use, I thought; he helped himself to wine sometimes; generally the servant helped him to wine; he always carried the glass to his lips with his own hand; I never saw him assisted in that by any one; before the attack the napkin was not fixed in that way under his chin; I never saw him walk about out of doors after the attack; I do not think I ever saw him walk about the house entirely without aid; I am not positively certain

about that; but he could not have walked much entirely without aid." (I. f. 844, '5.) "I don't remember," says Mr. Charles A. Davis, "his ever rising to shake hands with me; he remained seated." (I. f. 614.) When standing in the hall or near the window, according to the testimony of Mr. C. A. Davis, whose visits were almost exclusively confined to Sunday evenings, (I. f. 570,) "generally some one was near him; sometimes I found him standing entirely alone, unsupported." (I. f. 577.) When moving from room to room his assistant was "most generally his wife, sometimes a servant." (I. f. 578.) "He used a cane; I don't recollect ever seeing him moving without a cane, or the support of something else." (I. f. 580.) "I can't recall any instance specially of his going entirely unsupported; I cannot recall any instance of his moving from place to place, supported only by his cane." (I. f. 581.) "If my memory serves me, one evening in his parlor up stairs, a bright moonlight night, he walked alone across the floor to the window to look at the moon; I don't recollect any support on that occasion; I was struck that he was remarkably well on that occasion; I don't recollect that he had any cane; I can't recall any other occasion when he moved alone in that way without the support of a person." (I f. 582.) "I think it was shortly after the same autumn when he executed the codicil of September 1853, but I can't be certain." (I. f. 582.) Mr. Davis, it will be recollected, served as a witness to that codicil, and he says of Mr. Parish, "on the occasion of signing that codicil he seemed to move without assistance along the table, supporting himself by it; I think he was in better health on that occasion than I had ever seen him before or since after the attack." (I. f. 579.) "At this time," again says Mr. Davis, "I discovered no material difference in his mind from that on previous occasions;

but in bodily condition he was much improved—better than I had seen him since his attack. I had been in the habit of visiting him since his attack frequently while he was in town during the autumn, winter, and spring; from the autumn after his attack to a week previous to his death." (I. f. 555.)

16th.—*His Wishes not Easily Ascertained.*

Mr. Davis ascribes great skill to Mrs. Parish in ascertaining the wishes and desires of her husband. "I think his wife," says he, "understood his manner so intimately, and from a little incident that occurred, I should say that she could ascertain his meaning and desire on any subject he desired. That was my impression." (I. f. 629.) He could convey his reference to one individual rather than another, such individual being absent, as Mr. Davis thinks, "by her repeating the name of the parties, I should suppose, until he reached the one he desired." (I. f. 630.) But when asked if Mr. Parish could make such reference without her repeating the names, he answers, "I should suppose not, as he could not repeat a name himself nor write one." (I. f. 630.) And as to his referring to one piece of property rather than another, "I would make the same answer to this as I have in regard to persons." (I. f. 631.) Mr. Davis gives one instance however, himself, in which Mrs. Parish failed to reach her husband's meaning, at least to appearance. "The subject," says Mr. Davis, "that seemed most to interest, had relation to property, sales and values. I had spoken to him of a piece of property that I was interested in selling. It was a valuable piece of property. Some weeks afterwards, not having seen him in the meantime, this property had been sold, and calling at his house, and meeting there a circle of family friends, after the

usual civilities and reception, the conversation became somewhat general, he suddenly interposed an inquiry, directing it to me. I, supposing that it had allusion to something we had then been speaking of, asked him, 'if he meant this or that?' To which he answered, 'no,' shaking his head very distinctly, indicating that I had not hit the point he was after. Mrs. Parish then went to him, and repeated other inquiries, 'if it was this or that?' alluding to subjects which we had then been speaking of. He would answer, 'no, no,' impatiently shaking his head, and then waving his hand, and putting his head back, indicating, as I said before, an unwillingness to continue the discussion any further. Returning to her seat, she remarked in a lower tone, 'that it distressed him and herself very much, when she failed to reach the object he was inquiring about.' She said, 'It is something from you he wishes, as the inquiry is directed to you.' I then thought it possible that he was alluding to something about which I had been telling him at some previous period, and I recalled to my memory the property which had been in the meantime sold."—"I then rose, after playfully rebuking Mrs. Parish for not understanding him. I said, 'I know what you are after.' It was a guess on my part, I should say. 'You want to know what that property brought at the corner of Broadway and Franklin street.' He instantly exclaimed, 'yes, yes,' repeating it several times, patting me upon the arm, and expressing great satisfaction at being at last understood. I then told him the price it had brought, and he expressed, 'Ah,' and nodding his head as if he understood me thoroughly. He then pointed over to his wife, and making a sound as if rebuking her, and others who had not understood him. He did it in a friendly manner. There was a great laugh on the occasion at my success after all the others had failed." (I. f. 559 to 564.)

Referring to this anecdote, Mr. Davis afterwards says, "Excepting in the instance mentioned in my direct examination," "I don't recollect an instance of her ever failing to hit his inquiry when the subject on which he manifested an inquiry related to conversation then going on in his presence, nor do I recollect any instance of her ever failing to hit it except in the instance referred to in my direct examination." (I. f. 641.) It did not often happen, according to Mr. Davis, that she asked quite a number of different questions about different things before he said, "Yes, yes!" or "Ah!" or otherwise indicated his assent. "Not often; he seldom referred to subjects beyond the conversation present; I don't recollect an instance, except the one just referred to, where he puzzled us." (I. f. 601, '2.) "He was in the habit of sticking to his inquiry till he got the right answer." "I can't recall any distinct instance other than what I have mentioned where he failed to give an answer after the first two or three questions." (I. f. 603.) "I generally confined my communications to matters of occurrence, the current news of the day. I generally avoided subjects that led to inquiry on his part. He was not able to converse." (I. f. 556.) As to his mind before and after the attack of 1849, "I could trace no difference, so far as I was in the course of communication with him; the subjects were very simple." (I. f. 636.) How far Mr. Davis himself may have understood Mr. Parish, or how far Mr. Parish may have understood Mr. Davis, in the following instance, must be left to the judgment of the reader. Mr. Davis had been called to witness the execution of the third codicil; and, says he, "On a remark that I made as to his bequests, I stated, 'I see you have been very liberal to the Eye Infirmary;' he then distinctly pointed to his eyes, saying, 'Ah, ah!' shaking his head." (I. f. 594.) The following is another

illustration from Mr. Davis as to Mrs. Parish's skill in eliciting proof of Mr. Parish's mental capacity. "I was speaking one evening with Mrs. Parish of the New Union Club House, then being constructed on the Fifth Avenue, that it was intended to be a very beautiful building; he, as usual, interposed an inquiry to her, as if desiring to understand what we were speaking about. She then stated more distinctly what I had been saying, and he, as usual, understanding, ejaculated, 'Ah!' She then added, playfully, 'That Union Club, I fear, was the cause of your being so suddenly attacked, or you would not have been attacked so severely if it had not been for that club.' She said that jocosely. His manner on that occasion was just such as a man generally would convey, who was thus rebuked, by turning partly from her, shaking his head, and uttering, 'No, no!'" (I. f. 624–'5,'6.) But to the ears of his domestic servants, as shown by the evidence of Wingrove, these intelligent sounds, resembling "No," were by no means of frequent occurrence. "His Noes were so long and far between with Mr. Parish that it would puzzle any man to say that he could be understood as saying No, or yet the imitation of it; it never appeared so to me." (I. f. 1641.) Wm. Brown, when asked how long he had known the attempt to ascertain the wishes of Mr. Parish, before reaching an object to which he assented, replies, "Three days." (II. f. 1510.)

But the readiness with which Mrs. Parish interpreted Mr. Parish's wishes during the social Sunday evening calls of Mr. Davis should be contrasted with her difficulty on other occasions, even in reference to "subjects that were very simple," and "the inquiry related to conversation then going on in his presence." From the month of March, 1850, to the 17th of November, 1855, Mr. Parish took the Sacrament of the Lord's Supper at the hands of his spiritual adviser, the

Rev. Dr. Taylor, seventeen times in all." (I. f. 3342.) "It was the usage of Mr. Parish," says Dr. Taylor, "to make some contribution on these occasions to the communion fund of the church; on one occasion allusion had been made in our conversation to the claims which were then pressing upon the fund: he immediately looked towards Mrs. Parish, holding out his hand, when she replied, You wish to give the Doctor something, when he replied, 'Yah, yah,' in his usual way, nodding his head; she replied, 'Very well, when he is going away we will do so;' upon my rising to leave some moments afterwards, he instantly held out his hand again to receive the money; she opened her bag, took out a white piece of paper containing two or three small gold pieces; Mr. Parish received them in his hand, but evinced strong displeasure both by his look and contemptuous mode of expression, frowning and saying, 'nah, nah, nah,' shaking his head towards her, intimating that he was not satisfied, and scolding in his way, and refusing to hand the money to me; Mrs. Parish smiled and said, "Give it to the Doctor;' he refused to do so, and threw the money back to her; Mrs. Parish picked it up and handed it to me; it was $15; I received it of course and retired; some days afterwards I was called on by Mr. Delafield, Mr. Wm. Delafield I presume it was, for I could not tell the two brothers apart, who told me that Mr. Parish had given Mrs. Parish no rest until he had succeeded in making her understand that it was his wish to contribute more largely to that fund; that Mr. Parish had himself selected the pieces, and fixed upon the amount which he at that time handed to me in gold, which was $200." (I. f. 3348–'51.) This occurrence "was about the month of April, 1851." (I. f. 3422.) Dr. Taylor, when asked, "Could any person of common intelligence, there present, have failed to understand that Mr. Parish wished

at that time to give you a larger sum of money?" answered, "I think they could not." (I. f. 3419.) Again, to the question, "From what then and there occurred under your observation, have you any doubt, or do you believe that Mrs. Parish so understood it?" he answers, "I have no doubt that she understood it." (I. f. 3419–'20.)

Mr. T. Tileston, President of the Phœnix Bank, speaking of an interview with Mr. and Mrs. Parish at the Bank, about the year 1851 or 1852, says, "He appeared to have a mode of communicating his ideas to her, which I did not understand. She appeared to construe it at once." (II. f. 456.) "He had a mode of communication by an expression, as near as I can recollect, of 'nin-nin-nin-nin.'" (II. f. 458.) Mr. Tileston, on another occasion, wished to make an arrangement for borrowing on account of the Phœnix Bank, to be deposited with the Comptroller as security for the Bank under its new charter, the sum of $200,000 in United States six per cent. stock, which he knew was in the possession of Mr. Parish. He addressed Mr. P. a letter to that effect, December 10th, 1853, offering a premium of $2,000 a year for the loan of the stock. In the reply to his letter, he was requested to call at the house in Union Square. He goes on to state, "I called at the house in Union Square in the evening; on entering the library I found Mrs. Parish, Mr. Parish, and Mr. Delafield, one of the twin brothers, Mr. Henry Delafield. Mr. Parish rose and received me apparently very cordially; gave me his hand, and invited me to take a seat at the library-table with them. Very soon after taking my seat I introduced the subject of my visit * * * from the expression of his countenance, and the interpretation given by Mrs. Parish who sat directly by him, he appeared disposed to make the arrangement." "I then inquired at what rate per annum he

would loan us the stock; he replied by holding up his hand and two fingers in this way. (The witness here held up his hand with the fingers closed, except the two forefingers, which were extended open and separate from each other, pointing upwards.) I then asked him if he meant to say that he would loan us the stock, and he replied by nodding his head in the affirmative several times, as much as to say, yes; so far as I could interpret it, it meant that. Mrs. Parish at the same time mentioned that that was his determination to loan it to us for $2,000 a year, that was one per cent." "I recollect saying to Mr. Parish that as the stock would have to be transferred to the Comptroller, that he would give the bank the power to collect the interest * * which the bank would collect and place to his credit, in addition to rest bonus." " He nodded assent." The witness was then asked, "What next occurred between yourself and Mr. Parish at that interview?" and he stated in reply, " He appeared to be uneasy, and put his hand on me—his left hand; his meaning I could not understand—did not understand." I then inquired of Mrs. Parish what he meant by this effort, what he meant to convey; he continued during this conversation I had with him to exhibit some uneasiness, and seemed to be a little excited—discovered some temper." " She stated that she was entirely at a loss to convey or to understand what he meant; that in no instance for several months previous had she been at loss to understand what his wishes were by his manifestations, by his signs. Mr. Delafield made a very similar remark, who sat by the table; they then got a slate, and Mrs. Parish wrote several things on the slate. I did not read what she wrote, but she wrote and then handed it to him, and he would shake his head and say no, no, not articulately so that I could understand it; but it was clear to my mind, and so they interpreted it—Mrs. Parish

and Mr. Delafield, who both pretended to understand him—that it was not what he wanted." Besides using the slate, "Mrs. Parish put some questions to him. I don't recollect the precise language that she used, but endeavoring to draw from him what he meant." "I stated then to Mrs. Parish and Mr. Delafield that I had some company at home and I must leave, which I did, after remaining there perhaps an hour; before leaving, however, I stated I would call again on a subsequent evening." And accordingly "within two or three days after, I called in the evening about eight o'clock." "As soon as we were seated, Mr. Delafield said that they had discovered, had ascertained rather, what Mr. Parish wished to convey. Mr. Delafield then stated, that in addition to the security we proposed for the loan of the stock, that Mr. Parish required the individual security of the members of the Board. On turning to Mr. Parish, he immediately made a nod of his head and a sort of exclamation; we then, in order to be certain what it was that he wanted, wrote it upon a slate; that was for my satisfaction. Then we wrote on the slate: 'you require the individual security of the members of the Board, or directors of the Bank?' I don't know what term was used." "His manner was as approving as that being the idea he wished to convey. In regard to some memoranda made at the time, the witness says, "My impression is, that I wrote the first line, 'do you want more security?' and then stopped, and then when some argument was used in relation to the additional security, I made use of this, 'you have the capital of the bank, besides all stockholders are liable for $1,200,000 more.'" "My impression is, I wrote it immediately, in order to convince him that he had been too exacting." "As soon as the thing was fairly before me I understood it. I told him at once that I could not comply with the terms." "He made no

response," " no, sir." The witness observed his countenance, " I did, he looked more gloomy—morose,"—" I did not come to any agreement with him whatever; but left him, considering the matter was at an end." " I don't think I saw him for several weeks after that." " My impression is, that the next time I met with him I told him I had made other arrangements." In response, " He made as far as he could make—he made a sort of movement with his countenance." " That of disappointment." (II. f. 466 to 502.)

During one of these two interviews at the house there was an interruption, caused by the servant announcing a visit from Mr. Henry Young. " The moment Mr. Parish discovered who it was, he rose to his feet, very much excited, and commenced shoving his hand in this way, as I have before described; [as a pushing-away motion;] Mrs. Parish, seeing the agitation of Mr. Parish, went immediately to the door and invited Mr. Young (who had called to solicit a subscription for a charitable institution) to take a seat in another room, or another part of the house." (II. f. 525.) " I considered that he was an unwelcome visitor, and that he wanted to get clear of him as quick as possible." (II. f. 594.)

How far Mr. Parish's judgment was his guide, or was properly interpreted by others, in the transaction with Mr. Tileston, may be inferred, perhaps, from the fact that he himself was at that time the owner of stock in the bank to the amount of two thousand and fifty-eight shares; (II. f. 390 to 405;) and that, before his attack, he had loaned two hundred thousand dollars of United States six per cent. stocks to the Bank of the State of New York, on precisely the same terms as those offered by Mr. Tileston, and without exacting or asking for any other security than the simple obligation of the bank itself. That " negotiation was made

with Mr. Henry Parish," says Mr. Reuben Withers, the president of the Bank of the State of New York, "but the property was in the name of H. & D. Parish, the certificates of the stock. That was in 1845; I recollect making the negotiation with Henry Parish for two hundred thousand dollars in the United States six per cent. stock, for which the bank agreed to pay him one per cent. per annum over and above the six per cent. paid by the United States; it was borrowed of H. & D. Parish on these terms; I think either party had to give ninety days' notice of the termination of the loan, the security was that of the bank; he took nothing further; I think the stock was returned about 1847, perhaps before; I can tell exactly, by reference to my memorandum here; the stock was borrowed for the purpose of depositing with the treasurer of the United States as collateral for the deposit of the public money with the bank." "There was no other security given them than that of the bank, nor was it asked for, so far as my recollection serves me." (III. f. 1685, 1686.)

But Mrs. Parish's mode of interpreting Mr. Parish's wishes is perhaps best seen in the ordinary affairs of the family. "Mrs. Parish," says James Clarke, "would say what's going to be for dinner to-day; then he would say 'neay, neay, neay;' then she would go over so many things to him; ask him different things; if he wanted so and so; he would say neay, neay; then if Mrs. Parish could not find out what he wanted, he would apply to me by his fingers, raising his hand, and saying neay, neay; then if I couldn't manage it, or Mrs. Parish neither, we would have to wait for an hour, maybe two hours; maybe we would not find it out for that day; if we could not find out what he wanted, something else would be got then; then generally I left; Mrs. Parish would sit down and sew, or

do something." (I. f. 1728.) So also says Wingrove: "She has made efforts to make out what Mr. Parish wanted several times in my hearing, but she could not; I would then leave the room." (I. f. 1663.) "She would ask Mr. Parish if he wanted any thing that she knew any thing about, and he would repeat 'yanne, yanne, yanne,' put his fingers up, with gestures of the head and body; and then she would suggest different things, such as would you like to see Dr. Delafield or Mr. Markoe? is it any thing about going down town, or business, or store, or marketing? and all such like; after a continuation of ten or fifteen minutes, I thought it was not my place to stop there any longer, and I would leave the room; and when I returned Mrs. Parish would say, 'Thomas, I have found out what Mr. Parish wanted;' and I would say in reply, 'I am happy to hear it;' but I did not know what it was; as a matter of course, Mrs. Parish did not tell me." (I. 1664, 1665.) "About ten o'clock I went into the library," says Wingrove, "and on my attendance there Mrs. Parish would say, 'It is ten o'clock, Mr. Parish, here is Thomas; I suppose you will order breakfast as usual, and go to bed?' with that I would approach Mr. Parish, and assist him out of his chair, and walk towards the kitchen, a short distance from the library; on Mr. Parish's coming his cook would come to this window and ask, 'if you come to order breakfast, Mr. Parish;' Mr. Parish expressed himself as usual, with his fingers up first, and repeating 'yanne' perhaps three or four times, as much as to say he did; it was understood so, as he was there; the cook would suggest many things—in relation, I suppose, to Mr. Parish—what was in the house, and what he wished for breakfast; she guessed considerable times, and all the servants did, generally; it appeared that she found Mr. Parish out in some way; she said rice-cakes or

buckwheat-cakes; he was very partial to buckwheats, and if the name of buckwheat was mentioned, he appeared satisfied, and went on our way to bed; Mrs. Parish came afterwards and countermanded the breakfast—the order which Mr. Parish gave, according to what she thought most suitable for Mr. Parish in the morning, and herself and family, I suppose." (I. f. 1516, 1517.) "On one occasion," says the same witness, "Mr. Parish went to the kitchen, as usual, to order breakfast; he went in search of what he wanted himself, first going into the kitchen, and then to the pot-closet adjoining, or scullery, and searching the shelves. He could not find out what he wanted. Then we left the kitchen and turned round to the cellar, twelve or fourteen steps, I should say, leading down. Mr. Parish searched all round there, with the assistance of all the servants; giving up all hopes of finding out what was wanting, we came back to the cellar stairs, and one of the servants mentioned cranberries, and that appeared to Mr. Parish as if that was what he was looking for. We got up the steps and walked to his bed as usual." (I. f. 1651, '2.) On this occasion, adds Wingrove, "we guessed at everything we could think of, and Mrs. Parish also." "All the servants that were altogether, and they all guessed at something that they thought of at the time, the same as we always have done on such occasions." "On this occasion Mr. Parish was very passionate and very much excited, and I assisted him in going around, as usual, by my arm; and I received myself some several punches of his elbow on the stairs on our returning back from the cellar. Mrs. Parish was standing on the head of the stairs looking at the occurrence. The stairs are very steep, and they were all laughing at me getting what I did." (I. f. 1654.) Before entering the cellar, says Wingrove, "I pulled against him to prevent him

from going, for we never had been there before, and I thought it was a strange course to take; Mrs. Parish wanted to prevent him from going there also, as the stairs were very steep and dangerous to go down: Mr. Parish would go." (I. f. 1670.) There was not doubt of his wish on this point. "He told direct; he told momentarily by stepping down on the steps, and showing his perseverance." (I. f. 1671.) "There was no light in the cellar; what light we had came from one of the passages or the kitchen; I should say from the gas, and then were supplied by lamps, I think, or a lamp," (I. f. 1671, '2.) There was now a general gathering in the cellar. "All the servants—the cook, I think at that time it was Mary Brenan, who lived there, and Mary Crawford; Mary Ann Green, I believe; I am not sure of the name of the chamber-maid, I think it was Ellen; William Mulvey, the waiter, was present at the time in the cellar." (I. f. 1672, '3.) "We went as far as the wine-cellar, which is at the further end of the cellar, and round by the walls." "We turned back from the wine-cellar." "We made our way up, but not into the kitchen; we got on the landing from the cellar, or through the passage-way into the library." (I. 1673, '4.) In guessing at Mr. Parish's wishes, "I recollect distinctly that cakes and coffee, such as making it stronger, and birds, and all such things were mentioned in my hearing to Mr. Parish, anything that would be likely to be used at breakfast." "As Mr. Parish went into the pot-house of the kitchen, the cook supposed that he might be looking for something else, and on that occasion she mentioned several other things, such as dishes, pots, pans; did he want any thing in that way, or such like; he searched underneath some of them, and that was what led her to speak in that way." (I. f. 1675, '6.) Cranberries were first thought of by, "to the best of my opinion, the

cook," "just as we were commencing to come up stairs in the cellar." According to this witness the suggestion of cranberries must have been a random venture. "They were never used to my knowledge for breakfast" in the family, nor were there any cranberries in the house. (I. f. 1676.) He was thought to show that cranberries were wanted, however, "by expressing 'yah, yaune, yaune,' something in that way; we, the whole of us, thought so at the time—that he meant cranberries," and in saying that he tossed his head "much more than I did, [in imitating him,] for he was in a violent passion at the time." (I. f. 1677.) With regard to this paroxysmal excitement, says Mr. Folsom, "It always occurred at the carriage at those interviews that Mr. Parish made these gesticulations of the hand which might be very easily understood as wanting something or some information; and his excitement arose frequently at these interviews at Mrs. Parish's persisting in interpreting his wishes and failing therein." (I. f. 1201, '2.) And to the question, "Did the motions or gestures with the hand convey any definite idea?" Mr. Folsom says, "I answer that question under the firm belief that Mr. Parish at the time was perfectly unsound of mind, and therefore the motions and gesticulations spoken of conveyed no definite idea to me, to my mind, as they never were the cause of my understanding them or his wishes." (I. f. 1202, '3.)

Charles Nichols, aged 65, a journeyman house-carpenter, had long done work for Mr. Parish, under his employers, George and Wm. Youngs. After Mr. Parish's attack Nichols was employed at the house "most every week," "half or quarter of a day or longer." He never received directions from Mr. Parish about work to be done. "Nothing, only one instance a door I had to fix." "This was from four to four and a half years ago; * * he undertook to tell me that

there was a door, pointing up stairs, and I tried to find out what he wanted, and I couldn't do it, not by his talk; he got out of patience trying to tell me; he turned and went up stairs, him and his nurse; I followed him, and then he showed me the door; went to it; I asked him if that was the door; he gave me to understand it was by a nod and uttering a sound; I asked him if I should go through the rest and see if they were in order, and he gave me a motion of his head, bowing and uttering a sound, and then he left me and went down stairs." The witness says of this door that "the lock was out of order." On another occasion, "He was sitting in the coach one day when I was to work in the stable; the floor had rotted away and I was repairing it; I found also in where the Croton water is, where the horses were, the floor out of order and rotted; I went to the carriage and asked him if I should repair it: told him it was rotted in there, and needed it; I asked him if I should repair it, and he gave me to understand I should, by the same motion he generally used, bowing his head and uttering the sound I have already mentioned; the same sound as usual." The witness thinks Mr. Parish understood him. "I thought he did, perfectly well." "I thought his mind was as good as it ever was; it always appeared so to me; I noticed it a good deal." (II. f. 1638, '51.)

In further illustration of the ease or difficulty of reaching Mr. Parish's wishes, it may perhaps be necessary to refer to the earlier period of his illness; to the period at which it was first thought advisable to modify his will, or place his business affairs in the hands of some reliable friend who should be willing to accept his power of attorney. "On the 25th of August," says Mr. Folsom, referring to the year 1849, "Mr. Delafield called at our office, and handed me an order requesting that the trunk (meaning a small

tin trunk in Mr. Folsom's custody, but for safe keeping then at the Phœnix Bank, and in which many of Mr. Parish's valuable business documents were deposited,) should be sent up to Mr. Parish's house; that order was written on the body of it evidently by a female, in female handwriting, and signed 'Henry Parish;' that signature was somewhat like Mr. Henry Parish's signature, but very much distorted; it still had some resemblance to his signature." After some consultation on the authenticity of this signature with Mr. Ogden, the cashier of Phœnix Bank, Mr. Folsom resolved to visit Mr. Parish personally, and, if deemed proper, to deliver the trunk himself. "I then," says he, "took it up to Mr. Parish's house, was admitted to the presence of Dr. Delafield and Mrs. Parish; I put the trunk down in one corner of the room; the immediate first conversation I do not recollect; Mrs. Parish then asked me if I had the key of that trunk; I told her I had it; I then asked to be admitted to see Mr. Parish; she asked me my motives in wishing to see him; I told her they were of a general character—in the first place as a friend, and then to judge of his mind and health; she refused me admittance, on the ground, or stating, that any business matters brought before Mr. Parish irritated or excited him very much; she said he was fretting very much about some papers in his trunk, and she thought it very hard the man could not have his own way, or words to that effect;" (I. f. 1113–'18;) "when Mrs. Parish declined to admit me to see Mr. Parish, Mr. (Dr.) Delafield said, 'Susan, I see no good reason why Mr. Folsom should not be admitted;' she said, 'he can't go in,' or words as near that as I can remember;" (I. f. 1121;) also, "Mrs. Parish said 'Mr. Parish always told me that he intended to give me the Wall Street and Union Square properties;' I then said to

Mrs. Parish, 'I will ask him the plain question as to his desire to give you those two properties;' she then, on a promise from me not to ask any other question on business—she saying to me, 'if you will ask no other question on business, you can be admitted.'" (I. f. 1122.) "Mrs. Parish went into the room with me, and no other person; she took a seat on the right of Mr. Parish, who was sitting up in a chair; she took his right hand in hers, and said, 'my dear, Mr. Folsom has called to see you;' he immediately turned towards me as I advanced, turned his left hand over upon his left knee, and I took hold of it; my first remarks to him were a simple expression of regret at his illness; I then said, 'Mr. Parish, should any thing occur to you, (meaning thereby his death,) do you wish this property to revert to Mrs. Parish?' he made a negative motion of the head, or a shake of the head; I put the same question to him in relation to the Wall street property; he shook his head as before; Mrs. Parish remarked, 'you do not put the questions in the right way,' or words to that effect; I immediately altered the words of the questions, by saying, 'in case of your death, do you wish to give this property to your wife,' or 'to Mrs. Parish,' I forget which were the words I used; he made a nod of the head; and to the same question put in relation to the Wall street property, he made the same motion of his head, a nod; there had previously to this, during this interview, been some conversation between Mrs. Parish and myself, as to the Barclay street and Chambers street properties; I then suggested to her to ask him in relation thereto; she said to Mr. Parish, 'did you not in your will give me the Barclay street property?' he made a negative movement of the head; she asked the same question in relation to the Chambers street property, the same answer followed, the same negative move-

ment of the head followed; she then varied the form of the question; the exact manner I do not recollect; and his reply was an affirmative nod of the head; Mrs. Parish and myself then rose from the interview, and I said to Mrs. Parish, in words as near as I can recollect, 'I consider Mr. Parish to be of unsound mind, and incapable of transacting business;' I should have put in there, to make it a direct and straightforward narrative, that, from his contradictory answers, I thought he could not understand questions; or if they were understood by him, he was incapable of giving direct answers, and thereby incapable as above to transact business." (I. f. 1123–'7.) Mr. Folsom did not leave the trunk with Mrs. Parish, and told her, "I did not wish to leave it and let it go out of my hands or control, until it was taken from me by some process of law, or till I was satisfied of Mr. Parish's soundness of mind, or till it was taken from me for good or entirely, or words to that effect." (I. f. 1128.)

The subject of modifying the will of Mr. Parish, as originally drawn in 1842, had, previous to this interview with Mr. Folsom, been one of some solicitude with Mrs. Parish. There had been frequent attempts, as already shown, to induce Mr. Parish to write, even before recovering from the first shock of his paralytic seizure. He had succeeded in making with his left hand a few characters, in pencil-mark, on the blank leaf of a book, under the direction and with the assistance of Dr. Delafield, in relation to which Dr. Delafield says, "I had an impression, not however a positive one, that upon seeing these characters Mrs. Parish somewhat suddenly exclaimed, 'wills,' with a good deal of emotion, as if it were an unexpected, startling thought to her," (304–'7.)* This occurrence, it will be

* For the fac-simile of these characters, which were thus interpreted to mean "wills," consult the printed evidence, Exhibit, No. 264, Vol. III. p. 701.

remembered, was about the 15th of August, possibly earlier, though the latter supposition is very improbable. (I. f. 3049, '50.) The transaction with Mr. Folsom in reference to the tin trunk, as related above on the evidence of Mr. Folsom, was on the 25th of August. (I. f. 1115–'28.) The first codicil to the will, by which the Union Square property and the property in Wall street were transferred to Mrs. Parish, was executed, as shown by the document itself as well as by the evidence of Mr. Lord, on the 29th of August, (I. f. 7;) and in consequence of the peculiar circumstances under which it was drawn, the same codicil was again executed, for the second time, on the 17th of December of this same year. (I. f. 11–'13.) The alterations of the original will, effected by this codicil, appear to have made little or no impression upon the memory of Mr. Parish, if, indeed, he had at any time a clear perception of the transactions.

17th.— *Vacillation and Forgetfulness.*

Mr. Folsom, it will be remembered, still retained the custody of the original will, or the duplicate of it, which, on the 13th of November, 1849, he had deposited for safety in the Fulton Bank, (I. f. 1139, '40.) On the 4th or 5th of January, 1850,* Mr. and Mrs. Parish called at Mr. Parish's office, and were at the door in their carriage. Mr. Folsom stepped to the carriage-door to ascertain the object of their visit; "Mrs. Parish said to me, 'Mr. Parish wants, or is very anxious,'

* The date is probably incorrect. It was probably on Friday, Jan. 4th, 1850. He says, *next day* he called up to the house with Mr. K. to deliver the deed. If so, this would have been on Sunday, allowing his date to be correct. The balance-sheet was taken up on Monday, Jan. 7th, 1850. At p. 393, vol. I., he gives the date of the house call as Jan. 5th, but confusedly.

or words to that effect, 'to get a paper from the office;' this question was put by Mrs. Parish, evidently to explain the cause of certain movements of Mr. Parish which I could not understand; she said, as near as I can remember, 'Is there not a bill of Mr. —— (the name not now recollected, or, perhaps, never given by her) in his, Mr. Parish's, desk?' I informed her that I knew of no such paper; she then remarked, 'it is his will he wants, and you had better ask him,' or words to that effect; I then said to Mr. Parish, 'Mr. Parish, do you want your will?' he made a negative movement of the head, and certain gestures of the hand; I then repeated the question in very much the same words, twice; his reply in both cases was a slight nod of the head, an affirmative nod; Mrs. Parish then remarked, 'Well, I am glad you understand him, at last, and you will please bring it up,' or, 'you will bring it up to the house;' I said to her, 'I am not so positive or sure on that point. I will take counsel with my legal adviser and be governed accordingly,' or words of similar import; she abruptly closed the carriage-window, and ordered the coachman to drive on; I called upon Mr. Francis Griffin that afternoon, laid the case before him, and asked his advice; acting upon his advice and also the advice of Mr. Kernochan, I took the will from the bank, and on the following day, I think it was, asked Mr. Kernochan to go up with me and see to the delivery of the will; we went up, Mr. Kernochan and myself, to Mr. Parish's house, were admitted into the library; there were present Mr. and Mrs. Henry Parish, Mr. Delafield, Mr. Kernochan, and myself; Mr. Kernochan sat upon the right side of the grate or fire-place; soon after I had taken my seat near him, on his left hand, I said to Mr. Henry Parish, 'Mr. Parish, I have brought up your will; do you want it?' I think his reply was a slight negative, or of so

indefinite a character I could not tell whether it was affirmative or negative; I repeated the question, and he made an affirmative motion of the head; he took the will from my hand, and I think either put it on his seat beside him or sofa. I think he was sitting upon a sofa, or he kept it in his hand, upon his lap." (I. f. 1140–'45.) During this interview, "I said to Mr. Parish, 'Mr. Parish, have you ever altered your will?' (having reference to the will just handed,) or similar words; I think the words were: 'Have you ever made any alteration in your will?' I think these were the exact words; he made a negative movement of the head; I wished to call Mr. Kernochan's attention to the question, which I intended to repeat, he then being engaged in conversation with some party present; and I did call his attention by asking him to listen to the question I was then going to put, or words to that effect; I then put the same question to Mr. Parish, the same as I had before, asking him if he had made any alteration in his will; he made a very decided negative movement of the head, or shake, and I think, made a sound with his voice, sounding much more like 'no' than 'yes,' but which I never could have supposed to be 'no,' if it hadn't come immediately after a question, and under the peculiar circumstances; I think that expression which sounded more like 'neah' was the only time that I ever heard him express himself in that way." (I. f. 1160, '2.) Mr. Kernochan's evidence gives confirmation to the foregoing, (I. f. 865,) and in referring to Mr. Parish's vacillation in the use of the negative or affirmative, he says, "I think he did not always adhere to the one or the other, as it might be; I think, that sometimes in reply to the same question, he changed from a nod to a shake of the head, and vice versa; that occurred particularly in relation to the will, the leaving of the

will, when he both nodded and shook his head, when the same question was put, not at the same time, but at an interval, which led me at the time to suppose that he did not want the will left; that was the strongest case that occurred." (I. f. 883, '4.) Again, at one of the later calls of Mr. and Mrs. Parish at his office door, some time after the will had been given up, and the trunk had been removed from Phœnix Bank, "it has since come to my mind," says Mr. Folsom, "that on one occasion when Mr. Parish continued those gestures with his hand, I asked if he wanted his will; he made an affirmative nod of the head; I said in effect, you have it already, and Mrs. Parish said, as near as I can remember, 'Why, Henry, you know it is home;' to a similar question as to his wanting the trunk, his reply was the same affirmative nod, when Mrs. Parish told him as before, that it was home, or that he had it already, or something to that effect." (I. p. 362, f. 1265, '6.)

The foregoing are not the only instances evincing a want of memory on the part of Mr. Parish. "In walking in the Elizabethan room," says Wingrove, "Mr. Parish's attention was drawn to a marble slab, with an imitation of a Venus upon it, in a recess in the room. It was covered with a mosquito-netting at the time. Mr. Parish put his hand upon this image all over from the feet to the head, and seemed to want to know what it was, as I could understand him at the time. I told him as well as I could, just as I tell you now, and he went on his walk as usual. The same object drew his attention four or five times during my time there, and at each time he seemed to want to know what it was." (I. f. 1649, '50.) Again, in the morning, "I would ask if he wanted pants, vest, coat, or such, and then he would say, 'ya, ya, yanne, yanne, yanne,' and shoved his head; he still continued the motions of the head, sometimes of the head and of the body, and got

quite irritable and excited; he was one morning, he got so far, I am sorry to say, that he walked from the bedside perfectly naked, with my assistance, into his dressing-room, and searched a wardrobe belonging to Mrs. Parish, apparently looking for some of his clothes; I told him that there was none of his clothes there; he was not at all satisfied; he gave me two or three punches of his elbow, and insisted upon searching it, up and down with his hand in that manner, and expressing, yaune, yaune, yaune; we got back to the bedside, when he got cooled down, where he got very disagreeable with me, and having no clothes by, poor Mr. Parish fell, and Mrs. Parish jumped out of bed, and cried out, 'what was that;' I told her Mr. Parish had fallen, and she assisted me to get him on his feet; I got on with his dressing as usual, and took him down stairs." (I. f. 1507, '8, '9.) "He has," says Wingrove, "made the same search of this wardrobe before that time, and after, I think, about five or six times, while I was there; he never found any thing in it belonging to him; I never found out what he wanted in any of these searches," (I. f. 1509.) The mystery however was afterwards revealed—"I am aware of it at the present time, but as to that time, I am not sure whether I was aware of it, I believe not; but I asked the question, and was told Mr. Parish used to keep his clothes there before his attack of paralysis." (I. f. 1604.)

18th.—*The Force of Habit, Old Haunts, Occupations and Recollections.*

The force of habit in this instance had outlived the ability to profit by experience, and many of the other actions of Mr. Parish appear to have depended not less than the foregoing upon the simple force of habit; among which were his visits to the market, his business

calls in Wall street, and at the office of his former partners. On the occasion of visiting Wall street for the purpose of collecting dividends, Mr. Kernochan, who was in the carriage in company with Mr. and Mrs. Parish, speaks of one indication of memory on the part of Mr. Parish. "It appears to me that I recollect in consequence of some indication on the part of Mr. or Mrs. Parish, or both, that we stopped at the office on the corner of Hanover street and Wall; I think in the basement story." "I think I went into the office." "I inquired, if Mr. Parish had any stock there, and they replied in the affirmative, that he had, I think," "and that there was a dividend due to him; that dividend was paid, I think, at that time, either on my receipt for Mr. Parish, or on Mrs. Parish's receipt;" it was a Fire Insurance Company." (I. f. 1006, '7.) "On this occasion the carriage was stopped by either Mrs. Parish or myself. I am not certain which;" and in regard to Mr. Parish, "I think he put his hand out of the window in the direction of the corner of Hanover and Wall streets," giving indication, as Mr. Kernochan thinks, at or before that stoppage. (I. f. 1060.) On the following occasion again, his memory of things with which he had been familiar many years, appears to have forsaken him; Mr. and Mrs. Parish had made two calls at the Phœnix Bank, in relation to the trunk, of which the cashier of the bank answered Mr. Folsom, the "custodian, pending any doubt as to Mr. Parish's sanity." (I. f. 1473.) Mr. N. G. Ogden, the cashier and witness on this occasion states, "Mrs. Parish said to me, as well as I can remember, 'Mr. Parish appears to want something from you or the bank; I have brought him down to see if you can understand what it is;' I endeavored by various questions to ascertain from Mr. Parish himself what it was he wished, but could not by any means understand him; he made no answer but un-

meaning motions; I think, Mrs. Parish then suggested that he wished his trunk; I asked him that question direct; my impression is that he made first an affirmative motion of the head, and then a negative motion to the same question; I don't think the question was repeated, but that he made both to one question; this was at the interview inside the bank at the cashier's desk; the result was that they left the bank without any action being taken of any kind, as we could not understand what he really wanted." (I. f. 1475, '6.) "The porter's vault was on the side of the bank, opposite the cashier's desk, and outside of the counter; the entrance was on the same floor." "It was in full sight of myself, Mr. and Mrs. Parish, at the time of the conversation and interview mentioned by me, if we turned in that direction; it was about 25 feet from the desk; a person would have to walk about that distance to reach it; Mr. Parish was a director of the bank during all the time I was there, which was twenty years; I can't state how much longer; previously to his attack he knew the location of the porter's vault; he was in the habit of going there to take the trunk; I can't say that he was in the habit of going into the vault himself, but I think he generally asked one of the clerks to get it, and saw where it was taken from." (I. f. 1490, '1.) The instances cited in favor of Mr. Parish's exercise of a discriminating memory and knowledge of time, are those given by Mr. Henry Delafield, by Dr. W. V. Wheaton, and by the nurse, Wm. Brown. "Having been riding out of the city," says Mr. Henry Delafield, "he would take his watch out of his pocket, look at it, turn round and look at me, when I would ask him if he wished to return; if it was late or about his usual drive, he would say 'yes,' and nod his head." (III. f. 108.) "The 11th and the 15th of the month Mr. Parish, when at breakfast,

would look at one, make a sound, and then would turn partly round, point at the clock; then I would ask him if he wished me to wind up the clock; he nodded his head, and said 'yes;' I would then wind up the clock in the house; this was subsequent to my brother William's death; previous to that William wound up the clock under the same circumstances." "I recollect on one occasion the dining-room clock was run down, when he pointed at the clock, I perceived that it had stopped; remarked to him that it had stopped, and I would wind it up when he nodded his head." (III. f. 111, '12.) Dr. Wheaton relates to him an old anecdote, "I recalled one; we oftentimes, or several times, met at Saratoga, and on one occasion Mr. Parish and Mr. Gasquet of New Orleans, and myself, returned to the United States Hotel after a long walk, when we went to the office—vulgarly called bar—for the purpose of taking a drink of brandy and water; when a strange dog belonging to some gentleman coming in at the door, attracted the attention of a large dog lying behind the counter, belonging to Mr. Marvin, and forgetting where he was, under the eagerness to meet an antagonist, jumped across the counter and swept all our bottles and glasses in every possible direction; Mr. Parish said he recollected, gave me to understand he recollected it perfectly well, and laughed louder, gave a more significant laugh than I have ever known him to make —at least after his attack." (II. f. 620, '21.) "Mrs. Parish would ask him," says Wm. Brown, when questioned as to Mr. P.'s memory, "if it was about business, he would nod his head in assent; different things would be named to him until the right was found; it would be acknowledged that they had quite forgot it; that is how I prove that his memory is good." This occurred "several times." (II. f. 1387, '8.) Again, "Some article of dress to be altered would be spoken

of to-day and remain for a week, waiting for an opportunity to take them to his tailor's to be mended; he would make a sign, * * he would put his hand on his coat, on the breast lappel; shake it; point up stairs with his finger; I would ask him if he wished to go to his tailor's to-day; he would make the assent with his head; I would fetch the article down, and he would have it taken with him in the carriage; I would take it, and he would drive down to the tailor's with it, and leave it there for alteration; the same way with any other article of dress, pantaloons, vest, or underclothes. (II. f. 1389,'90.)

19th.—*Business and Household Transactions. Small Degree of Discernment in the Management of his own Affairs.*

Mr. Henry and Mr. William Delafield were both at times engaged "in procuring information for him for the investment of his funds," and in collecting his income, interest, and dividends. "Up to the time of my brother William's death," says Mr. Henry Delafield, "he generally attended to it; after that, I did." (III. f. 38, '9.) But Mr. Parish looked over his own accounts. "He would open the check-book, look at it, examine it, and occasionally put his finger on the checks, or deposits; look at me inquisitively, when I would go to him, and explain to him the nature of the deposit, and for what purpose the checks were drawn." He would in the same way examine the tickler. "He would open the book, attentively look at it, then looking at me, when I would rise, go to him, and ask him if it was his wish I should collect the dividend or the interest that might be due at that time. He would nod assent, and say yes; I would then ask him if Mrs. Parish should draw an order in my favor to collect the interest or dividends then due; if coupons of bonds, he

would point to the closet, where the iron-chest was kept, in which the securities were; when those securities on which the interest was then due would be brought him, the coupons would be cut off: occasionally he would count them, and then looking at me, I asked him if I should collect them for him, he would nod assent, and say 'yes.'" And so of his bank-book. After having had this balanced at the bank, "I would then compare the bank-book with the check-book and the checks, and if the two agreed, would tell him so; and if they did not agree, would correct the errors: having done this, he would point, raising his hand, as before, and looking at me, and then pointing to his books, I would hand them to him; he would attentively look at this check-book, when, if any errors existed, I would explain how they occurred." "Having money in the bank, I would submit to him several propositions from brokers to loan money on bond and mortgage; sometimes he would nod his head, and say 'Yes,' and at others shake his head, and say 'No.' If he assented, I would say to the broker that the money would be loaned on property satisfactory, and the titles having been examined by the lawyers, I would say to Mr. Parish the titles proved satisfactory, and the check would be drawn: I would ask him in whose name the deed should be made out, he would point to his wife; then I asked him if it was his intention to have the deed made in her name; she also would ask the same question, and he would say, 'Yes;' the bond would be brought home, sent home to him, that would be read to him distinctly, and he was asked whether that was his intention to have the property, to have the bond or mortgage in her name, when he said, 'Yes.'" The witness was here asked, "After your brother William's death, did you take part in all the investments on bond and mortgage?" and he answered,

"I did." (III. f. 41–48.) Mr. Henry Delafield, (like most other of the witnesses produced by the executor, Major Delafield, in closing their direct examination,) says of Mr. Parish, "I consider his mind good; he was intelligent, and capable of transacting all the ordinary business as well after as he did before his sickness." (III. f. 158.)

The evidence of Major Richard Delafield is much to the same effect. He is asked, "From your observation of Mr. Parish, and intercourse with him, what, after the time of his attack, in your opinion, was the condition of his mind?" To which he replies, "Perfectly capable of understanding and comprehending any subject addressed to him that he could have comprehended or understood before his attack." (II. f. 1810.) Mr. Henry Delafield was asked, "Prior to the attack, did you ever know Mr. Parish having card parties at his house?" and his answer was, "I have." "He had occasionally card parties." He was asked, "In Mr. Parish's lifetime, after the attack, what persons have you seen playing cards at Union Square?" He answered, "Mrs. Payne; I can recollect at present of none other; there may have been, but I can call to mind none other;" but "with me occasionally;" and again, "at such times I have played there, my brother William, and Miss Herlitz also played; that is my present recollection. I recollect of none others." "Whist, I only recollect whist with these persons." He was asked, "Did you never see Mrs. Parish playing at cards in Union Square, after Mr. Parish's attack, and in his lifetime?" and he answered, "I have;" and as to others, "I do not recollect, excepting it may have been my brother and myself, and members of the family." During the same period there was also an occasional game of backgammon, the players being "Mrs. Payne, my brother William, Mrs. Parish, and

Miss Herlitz." And as to Mr. Parish, "He was at the end of the library table, where the game was being played, and the backgammon board at the other end; that is, when the game was played on this library table; at other times it might be in a different part of the room; it was the same with regard to cards; at other times he was not at the library table, he might be in a different part of the house." He was then asked, "At any time after his attack did you ever see Mr. Parish play cards or backgammon, or any other game?" He answered, "I never have seen him play cards nor backgammon nor any other game, to my recollection." He was asked again, "Did you ever at any time after Mr. Parish's attack see him make any effort or attempt to play at cards, backgammon, or any game?" and he replied "I never have. (III. f. 176 to 181.) At another point he was asked, "Was Mr. Parish, at any time before his attack, in the habit of playing any game of cards in, or with the members of the family?" and he answered "no,"—but "with his friends at the club-houses, and as far as I know, with superior players." He was asked, "Do you know who formed the party at card-parties at his house, or at card-parties at the house of any friends he attended?" and he answered, "Dr. John Augustine Smith, Mr. Kernochan, Mr. De Rahm, Mr. Graves, Mr. Otis, Mr. Bache McEvers; there are others, which, on recollection, I could name—these gentlemen I have seen at his house." The game was "Whist only." As respects his skill at cards, he says Mr. Parish was "a very good player." (III. f. 399, 400.) Mr. Wm. C. R. English, who was a member of the Racket Court Club in and prior to 1849, a frequent attendant, says Mr. Parish was also a frequent attendant there, and that his amusements or occupations there were "playing whist, or watching the game played by others; I never," adds the witness,

"saw him engaged in any other way." "He was generally very much interested in the game," but as to his skill as a player he was "a very poor one; a very indifferent game." These answers are in reference to Mr. Parish's condition before his attack in 1849. (III. f. 1659, '62.) Mr. Richard S. Emmet, also a member of the Racket Court Club prior to 1849, says, "I think Mr. Parish was a frequent attendant there; he was; his amusements there were either playing at a whist-table or sitting by a whist-table while other members were playing, and looking at the game; I think he evinced great interest in the game while others were playing; I have played whist with him there a number of times; I always considered him rather an indifferent player." (III. f. 1669, '70.)

Mr. Henry Whittaker, an attorney and counsellor at law, a mere calling acquaintance, says, "On one occasion in particular, when I was there with my children, Mr. Parish appeared extremely anxious the children should have something, different things that were at the table; he communicated his wishes through Mrs. Parish in the same manner I have described in regard to the glass of wine, and repeated that communication until they had partaken of most of the dishes on the table; repeated it certainly twice if not more." (II. f. 1664.) Of one of Mr. Parish's usual gesticulations he says, "The meaning I attached to it was that he wished to ask a question, or rather, to excite Mrs. Parish's attention, that she might communicate some idea which was passing in his mind." (II. f. 1673.) "My opinion of the condition of his mind," says the same witness, "was that of a person competent to understand and to transact business; but his peculiar position was such that it was necessary for him to transact business through the medium of another person." (II. f. 1677.)

Dr. Wheaton, an elderly gentleman, calling occa-

sionally, says of Mr. Parish, in reference to a Christmas party at the house, "I found him seated on the sofa in one of the parlors, apparently very much amused in looking at the dancing of the young nephews and nieces; I seated myself alongside of him, and I think I remarked to him that I was very glad to see him so much amused, and to see him up stairs, where I had never seen him before; he nodded his head in assent that he was so, at least I inferred it pleased him to see them. * * When we went down into the dining-room, as we supposed for supper, Mr. Parish went down also, or was assisted down, and sat in his chair during the opening and distribution of a variety of presents that Mrs. Parish made to every member of her family that was present; and as the young people took their presents to him to show him, he seemed to be very much pleased." (II. f. 614, '15.) "I never was consulted in Mr. Parish's case; I never made any investigation as to the nature of his disease or attack; my intercourse with him was purely social and friendly, as it had ever been during my acquaintance with him; I often asked him, in conversing with him, if he understood me, and he replied sometimes by saying, distinctly, 'yes;' at other times by nodding his head in assent, and sometimes by very emphatically slapping his hand upon his knee, and sometimes he took hold of my hand most feelingly." (II. f. 619, '20.) It always appeared to me that he was fully aware of his own condition and situation, and had a very clear perception of what was going on around him." (II. f. 628.)

James Watson Webb had a "ten minutes'" interview with Mr. and Mrs. Parish in Wall street, about April, 1851; and two years afterwards a similar interview in Wall street, lasting not over "five minutes." He had met Mr. Parish before his illness in Europe; and he had met him while in health at the Union

Club. Of the first of these two interviews he says, "I conversed with him, or talked to him precisely as if nothing had occurred, and when I referred to the fact I had missed him on my former visit to London, or something of that kind, referring to the fact that I had met him in 1844, and to our former meeting, he became very much excited and burst into tears." "His expression was as intelligent as I ever knew it to be, and as responsive to any remark I made; he laughed and smiled in response to my conversation." "I do not entertain a doubt but that his mind was as clear in relation to ordinary intercourse as at any time previously. This opinion was based more upon the first than the second interview, because it was longer, and made more impression upon me; the second was more casual." (II. f. 663–'69.)

Isaac H. Brown, sexton of Grace Church, who had assisted in bringing Mr. Parish home in July, 1849, had charge of the funeral obsequies of Wm. Delafield, who was buried from Union Square in November, 1853, and made occasional calls on the family for collecting pew rent. On one of these calls, in February, 1850, "Mr. Parish took the bill in his left hand at one end, and looked at it; I took it after that to Mrs. Parish; Mrs. Parish drawed me a check; I receipted the bill for the treasurer; Mr. Parish then motioned me to come towards him again, after I had got the check; he looked at the check, and began making a noise, crossing the first two fingers of the left hand, raising his hand, making a noise to her, calling her attention; as soon as she saw it, she gave me ten dollars; the inference I drew when I saw his fingers crossed was he wanted to give me something." (II. f. 1712–'3.) "I was passing the house with some notes, and he was getting into his carriage; I won't be positive to the date, whether it was a year; it might have been

longer than that, * * * I bowed to him; he then, as soon as he saw me, commenced making a noise, trying to talk to me; motioned to me to go into the house." "The man servant who was assisting him, said, 'You go into the house;' Mr. Parish wanted to give me some money; that servant was Wm. Brown; I went into the house; went into the library; saw Mrs. Parish; she had her hat on; appeared to be going out; I said to her, says I, 'Mr. Parish insisted upon my coming into the house here, madam;' she then handed me two five-dollar gold pieces, and she said to me, Mr. Parish had always remembered me for my kindness to him when he was sick." (III. f. 1715, '16.) "As I have said before, I considered him to be perfectly sound in his mind, except in the loss of speech; he had all his faculties." (II. f. 1727.)

From the period that Mr. Parish first began to move about in his carriage, soon after his attack until within a month or two of his death, his most frequent calls appear to have been upon his brokers, one of whom, Mr. John Ward, states, that with the exception of one transaction at Mr. Parish's house, all the business transacted by Mrs. Parish on Mr. Parish's account during this period, (amounting, as per exhibit No. 6, to $427,371 12), or so much of it as Mr. Ward can answer to, was transacted in front of the office door, he either being seated in Mr. Parish's carriage with Mr. and Mrs. Parish, or standing by their carriage door. (I. f. 787 of page 204.) The arrival of Mr. and Mrs. Parish on these occasions having been announced in the office by a servant, and Mr. Ward having been invited to enter the carriage, "I would," says he "either inquire if investments were wished to be made, or Mrs. Parish would suggest that they did wish to make investments." (I. f. 778 of page 207.) "The conversation was carried on between Mr. Parish and

myself by Mrs. Parish." "She would address him, to which he would give answers of assent or dissent by nodding for assent, and shaking his head for dissent." (I. f. 772 of page 206.) Mr. Ward, when asked if Mr. Parish made answers to him, until she also had spoken to Mr. P., says, "I don't remember that he did; though on a single occasion I believe he accepted the Cary notes, (exhibit No. 6,) and the Sturgess, Bennett & Co.'s notes, by nodding assent to me." But Mr. Ward afterwards qualifies this by saying, "I am rather inclined to think it was only one note, and that was the note of Cary & Co., I believe." (I. f. 786, page 210.) He thinks also that Mr. Parish refused to purchase notes in one instance, the notes of Bernheimer & Brothers, under date of Nov. 8th, 1854; but this, in the recollection of Mr. Ward, is by no means definite. "It is a strong impression more than any thing else," (I. f. 774, page 206,) and Mr. Ward remembers no other similar transaction. (I. f. 775, page 207.) Mr. Parish gave no reason for refusing these notes, and when asked if Mrs. Parish said any thing about these notes to him before he refused, Mr. Ward replies, "I do not remember that she did." (I. f. 776, page 207.) "On such occasions, I believe that Mr. Parish had a choice, but," adds Mr. Ward, "it is difficult for me to state; I don't think I can give any fact showing how he indicated a choice." (I. f. 780, page 208.) Of the numerous business transactions in the exhibit No. 6, some were conducted on Mr. Parish's account by other parties, during his absence, and without his being consulted. "I believe that Mr. Henry Delafield, or Mr. Wm. Delafield, now deceased, was offered $10,000 in Cincinnati Gas Co. bonds; there was one transaction of that kind, and whether there was another I am not able to state." (I. f. 783, '4, page 209.) When asked if any of these transactions were conducted by Mrs.

Parish, without the presence of, or consultation with, her husband, Mr. Ward says, "I believe not," (I. f. 784, page 209;) and, adds he, "To the best of my recollection, I never heard Mr. Parish utter a word after his attack." (I. f. 784, page 209.)

In the early part of Mr. and Mrs. Parish's visits, their transactions before the broker's office door were chiefly with Mr. John Ward, but during 1854 and 1855, with Mr. Henry H. Ward, nephew of the former. Mr. H. H. Ward says, "My habit was to ask Mr. Parish if he wished to buy any notes. If he bowed his head, I would proceed to my office and select such notes. After he bowed his head, before going to the office, I would inquire how much money he wished to spend. I would name various sums, and he would either bow his head or say 'no,' or the sound resembling 'no.' When I understood him to assent and fix an amount, I would proceed to my office and select such paper as I thought would suit him. I would show him the notes, and read to him the names of the makers and the endorsers. When he found one that suited him, he would nod or bow his head, and I think has made a sound somewhat resembling 'yes.' I would then take the note or notes to the office, have them discounted by a clerk, and take the note and statement to the carriage. Mrs. Parish would tear off a blank check from Mr. Parish's check-book, which I would take to the office and have filled up for the proper amount. She would then sign the check, hold it up to Mr. Parish, read him the amount, and either she or I would read him the amount of the statement appended to the note. He then would bow his head, and the transaction ended. I would wish them good morning, and Mr. Parish would generally present me his hand again." The transactions were usually in the carriage, the witness being "seated on the front seat, opposite Mr. and Mrs. Parish." He adds, "My

habit was to offer Mr. Parish such paper as I knew him to be acquainted with." "Either the makers or endorsers of the notes have always been what is considered first class." There were no notes on the exhibits with the maker of which Mr. Parish was not acquainted. "I do not remember any." (II. f. 1880, '92.) As to Mrs. Parish's interest in the transactions he says, "She was always in the habit of conversing freely with me." (II. f. 1934.)

Mr. Moses H. Grinnell, on one of the interviews, happened to be passing; he approached the side of the carriage, and began to converse, saying among other things, "I think that John [alluding to Mr. Ward] can fix you out in good style to-day; that was about the substance of my remark. He certainly, by his manner, coincided with me in opinion by a motion of his head very urgently—yes, yes; he then made some expressions or gesticulations, both which I could not understand at the time; and, as he saw that I did not understand him, he turned to Mrs. Parish and repeated the same, apparently the same, as far as I could understand. She turned immediately to me and said, 'Why, Mr. Parish can't find any of your paper; he wants your paper,' which brought immediately from him the recognition, 'Yes, yes, yes, yes,' nodding of the head, and a smile that way." (II. f. 1945, '6.) Speaking of these transactions, Mr. H. H. Ward says, "I certainly supposed that he understood me, or I would not have transacted business with him." "My opinion is, that he was capable of attending to his business, and I considered him a close man in money matters." (II. f. 1896.) Mr. Ward, however, says of himself that he is "excessively nearsighted," and "a poor observer." (II. f. 1935.) Mr. Grinnell's interviews were transient, and only social; but, says he, "so far as I personally, from the interviews I had with him, could judge, his mind was not impaired;

he understood every thing I said to him, as I supposed, distinctly." (II. f. 1955.) And Mr. Edward Prime, who had conversed with him at his own house, thinks "he understood what he was about." (III. f. 5.)

Mr. LeRoy M. Wiley had applied at the house in Union Square on the 1st of May, 1855, for a loan of $20,000. Mr. Parish "nodded his head once or twice." "As well as I recollect," says Mr. Wiley, "he made a motion to Mrs. Parish, pointed at his desk; she went to the desk, got the check-book, opened it, and told Mr. Parish that they had not so much money in bank, and refused to make a check. Well then he showed a good deal of temper about it, and she persisted in not drawing the check. I told him it made no difference. I only wanted the money, because I could invest it well; it was no inconvenience to me not to get it (I addressed myself to him always). Then he appeared to get furiously mad, rapped his hand as hard as he could on the table three or four times, and appeared to get very much out of temper. Mrs. Parish told him it was easy for her to draw the check, and she sat down and did so. She gave me the check after it was signed, and in about three or four hours afterwards they called at the store, and I gave them my note." "I had the note written for the borrowed money, and had signed it before they came. I went out and delivered it to him; he held it up after I got in the carriage; he held it up in his hand before his face, about two feet, and looked at it. After looking at it, he made a motion to me, uttering a continued kind of sound, putting the note on his knee, and striking it with the ends of his fingers several times, as much as to call my attention to it, I thought. I took hold of the note then and looked at it, and saw that there had been omitted 'interest from date.' Well, said I; I spoke, and told him I would go and write another note, for I saw at once what was the matter. I went to

the desk and added to it, 'interest from date,' the last words on the note. I took it out, and then handed it to him. He looked at it as before, and bowed his head two or three times, and shoved the note into a satchell, which lay on the seat by him. He shoved it into a book, which I supposed to be a memorandum-book, and then the book into the satchell. That is all, I believe. I bid him good morning, and went off." (II. f. 37, '42.) The witness was asked if Mrs. Parish was at the time present in the carriage, and he answered, "She was in the carriage;" and again, "Do you recollect whether she looked at the note or not?" to which he replied, "I don't think she did, sir." "I don't recollect that she did; my impression is, that she did not." (II. f. 133, '4.) It is but proper, however, to add, that this witness had himself suffered from paralysis, "in April, 1853, I think, about the first of the month." "It was a slight attack of paralysis—so my physicians told me; it has lasted to the present time; a slight affection of it yet." And when asked, "Has it in some degree affected your memory?" he replied, "It is possible it has in some slight degree." (II. f. 151, '2.) The following question and answer also may properly be noticed here: "You have spoken of Mr. Parish appearing to understand some things that were said to him; have you not stated to Mr. Frederick Bronson, that Mr. Parish could not originate any thing, or make any suggestion, and that when you talked to him about selling or disposing of property, his manner seemed to indicate, 'do as you please with it?'" To which he rejoins, "I should like to make two answers to that; I think I did say to Mr. Bronson that Mr. Parish could not make a suggestion, or originate any thing that I understood; I don't think I ever told Mr. Bronson that when you talked to him about selling or disposing of property, his manner seemed to indicate, 'do as you please with it'—not in those words." (II.

f. 149, '50.) The following is Mr. Wiley's view of Mr. Parish's mental condition: "Well, as far as I had any intercourse with him, his mind did not operate as quick as it had formerly done; his judgment was certainly sound on those subjects he was familiar with, after his attack; his judgment was not so good after his attack, not so quick; he was perhaps not as firm after the attack, for, in the settlement of the accounts, he would give way, yield his opinion for others. Perhaps it would be right for me to state how. For instance, in making a proposition to him, he would refuse it. I say he would refuse it; it was by a motion of the head he would do so—I mean by shaking the head; but by telling him that the other members of the concern were willing to make the compromise or settlement, he would yield his assent by nodding his head." He was asked, "Was this like or unlike the habit of his mind before the attack?" and answers, "It was unlike it." (II. f. 79, '80.)

Luther Bradish, Esq., aged seventy-four, president of the American Bible Society, says that in 1853: "The early part of February, I should think on the 2d, I received a note from Mrs. Parish, requesting me to call at the house; I did so, and found Mrs. Parish, Mr. Parish, and, I think, one other person; my recollection as to that is not very distinct, but I think the late Mr. William Delafield was also in the room. I am not quite sure." "Mrs. Parish stated to me, that Mr. Parish desired to learn something of the enterprise in which the American Bible Society was then engaged in erecting its new Bible House on Astor Place. I proceeded to state the nature of the enterprise; I was seated near to Mr. Parish at the time, and he apparently listening attentively to my statement," [which need not be repeated.] "At this time Mr. Parish was asked by Mrs. Parish if he desired to contribute to this object; he indicated very clearly the affirmative. This

indication was by a sound which some might take for yes, although not very clearly articulated, but mainly by expression and gesture, but so clearly as to leave me in no doubt as to his assent or affirmative answer to Mrs. Parish's question. He was then asked by her how much he desired to contribute. She then asked if he desired to contribute, naming one or two thousand dollars; I don't recollect precisely the sum she named. To this question he indicated a decided negative, a shaking of the head, and making a sound which by some might be taken for no, but it was not very clearly articulated; she then named a larger sum, to which he seemed to object, by the same negative indication as before; she finally named five thousand dollars, to which he evidently assented by the same sound which might be taken by some as yes, but as I said before, not very clearly articulated, and by expression which left upon my mind no doubt that he understood the question, and intended to answer in the affirmative; I then asked the question, whether he would prefer that this five thousand dollars should be applied to the general funds of the society, which were employed in the printing and circulating the Bible, as I have said before, or to the building-fund, which was specially devoted to the erection of the building; to the first question he indicated a negative—whether he desired it to be applied to the general fund; to the latter he indicated an affirmative; these questions were put to him separately, and the answers separately indicated; the check for five thousand dollars was then drawn by Mrs. Parish; * * the check was then handed to Mr. Parish by Mrs. Parish; he apparently read it, looked at it, examined it, apparently read it; he held it before his eyes; he then handed it to me; previously to that, however, he gave an indication that it was right with a motion of the head and some sound; I don't

recollect exactly, but there was every expression that he gave his assent to the correctness of the check." (II. f. 785, 791.) This witness had known Mr. Parish before the period of his marriage, had occasionally made social calls upon the family, and says further: "At these interviews, and from the indications I saw at these interviews, it is my opinion that Mr. Parish was capable of understanding, and did actually understand, what I said to him—what was said to him; that he was capable of assenting to, or of dissenting from, any matter proposed to him; his expressions of affirmation and of negation were very strong, very marked, very decided, generally, indicating intelligence and judgment, or decision." (II. f. 801.)

Mr. James Donaldson, in 1853 or 1854, called on Mrs. Parish. "I stated," says he, "the object for which I went: to apply for money for the New York Hospital, for a subscription, and I asked her to speak to Mr. Parish about it; she said, sir, she was interested in the object, in consequence of what her brother, Dr. Delafield, had said, and she was in hopes Mr. Parish would give something towards it, but much preferred that I should speak to him myself. * * She appeared to think that I would probably be more successful than she would be, and I consented to see him; she then took me down into the front basement room, where I found Mr. Parish." "He was seated at the northeast corner of the room." "I did not notice that the disease under which he suffered had affected his countenance; could not perceive that it had effected any change in his face." "He looked well; I don't recollect that he struck me as looking otherwise than he had hitherto looked." The interview lasted about twenty minutes. "I did not introduce this subject until the last, probably the last five minutes." "I told him the special object of my visit to him on that day

was to solicit a subscription to the funds of the New York Hospital." "There was an immediate and very striking change in the expression, [of his countenance,] as if the subject were an unpleasant one to him." "He repeated the word 'no,' as well as I could understand it; * * it was very much as if we spelled 'nah, nah, nah, nah,' quite as distinctly as many persons say it;" and "He held up his hand that I might see it, and appeared to count five, two, or three times; he repeated it over two or three times, certainly twice, that I might understand what he designed to convey to me." As to describing the motion, "I cannot at this distance of time; but it was somewhat in this way." [The witness here passes his thumb from one finger to another.] "It was somewhat in that way; I understood that it was five; I cannot now exactly say that I understood it was five, until, seeing him count his fingers, I looked to Mrs. Parish for an explanation; she said she supposed he meant to inform me that he had recently contributed to five benevolent objects." The witness said that it would be well "not to come to any determination at that time," and that Mr. Parish might have time to consider it; and the answer to that intimation "was almost identical with the first answer—a repetition of the monosyllable no; I should say it was identical." "I took leave immediately after that." It should be observed that this witness had formerly been associated with Mr. Parish in the direction of the Phœnix Bank, but had not before seen him since his illness. He says again of Mr. Parish, "Where the state of the mind cannot be communicated by words, it is quite impossible to arrive at so clear a judgment upon that subject as one could wish; but judging from the expression of his countenance, and his whole demeanor, I thought his mind capable of comprehend-

ing every thing that was said by me." (II. f. 1568 to 1583.)

Mr. Isaac Gibson, in soliciting funds for the New York Juvenile Asylum, had left a circular with Mrs. Parish in October or November, 1855, and asked her permission to call again. At the second call, says he, "I saw her alone again in the same room. She remarked that she had read the circular, and had also read it to Mr. Parish, who seemed to be much interested in the institution. She invited me down stairs, to be introduced to him. * * I addressed myself to Mr. Parish, and after having made a few remarks on the subject of my mission, I think he held up his hand in this way to his wife [the witness here raises his hand, extending the first two fingers, pointing upwards.] I think there were two fingers, but I cannot say certainly; there were two fingers in the first instance. Mrs. Parish asked whether he meant two hundred dollars, to which he assented, bowed his head. I had my subscription book in my pocket, took it out and read to him the names of all the contributors that were registered therein. After having done so, and commenced to speak of the merits of the institution, the good it had done and was doing, Mr. Parish then raised another finger—held up three. When he did so I was still continuing my communication, when after a short period he raised a fourth, held up four fingers; and when I had ended, which was in the course of a short period of time, perhaps two or three minutes, he looked at his wife, and held up his entire hand, in this way [with the palm outwards, and all the fingers extended.] Mrs. Parish then remarked to her husband, 'Do you intend to give Mr. Gibson five hundred dollars?' to which he bowed assent. She then asked me for my subscription book, and taking it to the desk, wrote something. She then went to her husband and held

up the book to him, remarking, 'is that what you wish? I have written Henry Parish $500,' to which he bowed assent." "I thought his mental faculties bright enough to understand the object and nature of my visit." The interview lasted "I should think about fifteen minutes." "My impression is, he was entirely silent." In closing, the witness says, "I wish to remark, when I went into the room and immediately subsequent to my introduction by Mrs. Parish to her husband, I remarked to him, I knew you, Mr. Parish, some years ago, but I suppose you have forgotten me, and he did not seem to recognize me." (II. f. 1863 to '76.)

Mr. Henry Young, as already mentioned, (see, page 97,) had called in the latter part of 1853 to solicit a subscription for the Demilt Dispensary, at a time when Mr. Tileston was in conference with Mr. Parish, and was refused. "I was not aware at that time," says Mr. Young, "that he had been [a subscriber]; but Mrs. Parish stated to me that he had made a subscription for the building; and that was the reason he did not wish to be called upon again so soon. I have subsequently seen the evidence of the fact that he did so subscribe." (II. f. 1609.) This interview, by referring to the evidence of Mr. Tileston, will be found to have taken place in the month of December, 1853, (II. f. 466 and 505,) and by consulting the Exhibit, No. 286, (III. f. 2137,) it will be seen that the previous subscription to the Demilt Dispensary was paid to Wm. Walker on the 17th of August, 1852. At a later period, "in the early part of 1855, there was," says the same witness, another subscription, "in the early part of 1855." "Mrs. Parish handed it to me, I think; it was her check; it might have been a $50 note, but I think it was a check." (II. f. 1622.) By the same exhibit this last subscription appears to have been on the 15th of March, 1855." (III. f. 2140.)

To determine how far the gratuities above mentioned, and others of a similar sort, were made from Mr. Parish's spontaneous action and by the guidance of his own unbiassed judgment, it may perhaps be proper to institute a comparison of his gift account from April 1845 to April 1849, with the gift account taken from Mr. Parish's check book, from August, 1849, to March, 1856, as given in full, item by item, in Exhibit, No. 286, (III. page 755 to 758.) This shows the total gifts for four years, from Mr. Parish's own books, to be $1,345, and total gifts for seven years, from Mrs. Parish's accounts, to be $15,762 46.

The only business transaction of Mr. Henry Young with Mr. Parish, was in reference to a mortgage, which appears to have been managed at the house, by and with the aid of Mr. Parish's habitual family advisers. (II. f. 1600–'3.) Mr. Young was a next-door neighbor. "I have," says he, "seen him often when he was helped into his carriage when going out to ride; or out of his carriage when he returned, it being just by my door." "Always when I happened to be near Mr. Parish, he seemed pleased to meet me; our meeting was generally the usual recognition and shaking of hands." "He always seemed a little excited, and there was impressed on my mind, from the effort he made to speak, that he really felt very seriously and sadly from the affliction of his not being able to express himself; that was very apparent; so much so, that when I could as conveniently as not meet him, I turned aside and kept away, because I thought it made him feel sad and disagreeable." (II. f. 1595.) "It was my opinion," says Mr. Young, "that he had sufficient intelligence to transact the ordinary business of life. (II. f. 1612.)

The business transactions with Mr. Charles St. John, who had purchased Mr. Parish's former dwelling-house in Barclay street, had reference to a loan or mortgage,

and were conducted at the Union square house, in the usual way, through Mrs. Parish and her brother, (II. f. 1850, '2.) This witness, speaking of Mr. Parish before the attack, describes the scene on his taking the last leave of his old residence in Barclay street: "I think his words were these, 'That he must bid his favorite room farewell, and that he never expected to get so comfortable a sleeping apartment again;' I think that was his words." "He shook hands with me, and seemed very much affected when he left, so much so that he shed tears." (II. f. 1859.) As to Mr. Parish's capacity after the attack, he says, "He seemed to understand when I had any conversation with him, what I meant; it appeared so." (II. f. 1855.)

The business transactions with the builder, Wm. Youngs, jobbing work and mortgages, already partly noticed, add nothing to the further elucidation of Mr. Parish's condition. His opinion of Mr. Parish is thus stated, "I thought he always understood me as well as ever he did." (II. f. 731.)

Stephen Sammis, 39 years old, clerk to his brother in the retail shoe-store at 29 Catharine street, says, "As near as I can decide in my mind, it is some five or six years since he (Mr. Parish) first came to the store; our store was then No. 101 Catharine street; he continued to trade there until his death; he invariably came in his carriage; Mrs. Parish was with him always; I never saw him without her; Mrs. Parish always made the selection; she would come in and say they wanted a pair of shoes for Mr. Parish; I would usually ask her what kind of shoes she wished; she would make the remark, she wanted the common kind, such as she had been in the habit of purchasing for him; I generally selected the shoes for her—the kind she designated—and the footman would usually take them to the carriage to put them on and ascertain if they

were the proper size; the kind she usually bought were a common article, such as we usually sold to the laboring class of people; she purchased that kind of goods until his feet became so swollen he could not get any thing of that description that would fit him; then we had to take his measure and make his shoes to order; we made him two pairs; the last pair was, I think, but a few weeks previous to his death." The first time of taking his measure, "I could not answer positively, I think it was about a year; it might have been a little over or less," before his death. As to the shoes not made to order, "The price of the shoes was about ten shillings; Mrs. Parish paid me for them." "I showed her a better article, and asked her if she didn't think something of that kind would be more suitable to Mr. Parish. She replied that those would answer for every purpose, as they were for common use." Those thus shown her "were a lighter kind of shoe, and softer material I thought would be more suitable for an invalid; the cost was from $2 to $3, different kinds." "He was in the habit of getting shoes about two times a year, and we had so much difficulty the two last times, that I think it must have been about a year," that his feet were swollen before taking his measure, for the purpose of making a pair to suit him. This swelling involved "the instep and ankle, and the entire foot appeared to be swollen." "I should consider it was the natural consequence of his situation —his illness." At all these interviews Mr. Parish used "no words, but sounds of a moaning or groaning noise; I hardly know what to call it." "I got the impression, the first time he came to the store, that from some cause or other he was not capable of doing any business— and I never lost that impression." (III. f. 1611–'34.)

Wm. J. Jones, aged 47, tailor for nine years in the employ of John J. Wyman, now Wyman & Co., had

been sent to the house to measure Mr. Parish, and furnish samples of cloth, for a pair of pantaloons. "Mrs. Parish told me she wanted me to measure him, I done so; he stood up in his chair, with her assistance; stood up from the chair, she holding him up, I think on the right side; I measured him, and wanted to find out what kind of pantaloons he wanted, which Mrs. Parish tried to explain to me the style that he wanted; Mrs. Parish told me she wanted them made so that he could get out of them easily, use them for any purposes he wanted, as he was feeble and not able to help himself; they examined the samples after that, Mr. Parish looked at them, likewise Mrs. Parish; she pointed out one or two, showed them to him, he looked at them and nodded his head, then he looked at them again and shook his head, made a peculiar kind of noise, which I could not understand, as if he was endeavoring to speak, so that I could not understand whether he chose any of them or not, and likewise his wife, she couldn't understand that; this was tried two or three times to understand which it was he would have; she said then that she would call down and let us know what they had decided on, what he had decided on, I wouldn't say which; I left then." They came down after this to the store, "I saw them in the carriage; they had the samples; I got into the carriage by Mrs. Parish's invitation; I sat alongside of her on the front seat; the samples were laid out on Mr. Parish's knee, Mrs. Parish picked out samples and showed them to Mr. Parish, asked him if he liked that, he would nod his head, then shake his head, and make this peculiar sound; this was repeated two or three times, I couldn't exactly say, it was more than once, might have been three, might have been four; it seemed, and in fact it was so that there was nothing that would give satisfaction; I then went up and brought some ends of cloth,

two or three pieces, I think three, of different colors; they examined them with no better success, examining them in the same style as the samples; she showed him one piece, asked him if he wouldn't like that, he would shake his head and then he would nod his head; at last she picked out a piece, and said to make him a coat off that; he appeared dissatisfied from his manner of shaking his head, appeared dissatisfied from his violent gestures with his hand, as if he did not like it; she spoke to him, said she thought it was very nice, very nice color, thought it would suit him very well, the exact words I do not remember, I remember the scene very well; that is about all that happened at that time." "The date of the visit to Mr. Parish's house was somewhere in the fall of 1849; the coat was finished January 10th, 1850, and the subsequent work was completed by April 26th, 1850; I think the coat was made a week or ten days after my visit to Union Square." "I consider he was imbecile both in body and mind." (III. f. 1636–'50.)

One of the carriage-horses being diseased, was sold. "Mr. William Delafield sold him," says the coachman, Edward Clark, (II. f. 2152,) and in due time another was found to replace him. This witness goes on to say, "Yes, I said to Mr. Parish, 'I think it is a fine mare and she'll drive well with Tom;' then he wanted to know what the price was, and I told him I wouldn't interfere in the price until Mr. William Delafield would come home, and then I would consult with him." Mr. Parish put the question, "Just the same as asking about the horse in the stable, holding up one finger or two," and saying, "neay, neay, neay, neay." "I said, 'Mr. Parish, you want to know the value of this horse,' and he assented with a nod of the head, and 'neay, neay, neay.'" "The next morning the man brought the horse there again, and Mr.

Delafield and me examined her, and made up our minds what we thought we would give for her. At least, I told Mr. Delafield what I thought was her value; then he agreed to it, and he told the man that owned her what he would give, that he would give $300 for her; the man wanted $350; then Mr. Delafield and me went round and talked to Mr. Parish, and Mr. Parish wanted to know of me what she was actually worth, and I told him I considered she was worth $300; so then he assented by a nod of the head, seemed satisfied." (II. f. 2157–'60.) But Tom, too, got worn out, and Clark was in search of a match for the mare, and found one. The next morning, before the new horse came, Clark saw Mr. Parish, and says, "He first made signs to me; he put his fingers and said 'neay, neay, neay,' or 'aney, aney;' then I took it for granted it was about the new horse; I told him I expected the horse round about two o'clock; I was going to drive him out for a morning drive. Well, the horse came, and I went out at the regular hour. When I came back, he got out of the carriage and looked at the horse, then he nodded his head to me, as much as to say how I liked the horse." "I told him I liked the horse very well, but I was going to keep him all night, and I could tell more about him in the morning. Next morning I went in as usual, and he received me as usual; 'neay, neay, neay,' with a nod of his head and a smile on his countenance, as much as to say, good morning." After this nod, "he put up his finger, one or two, I disremember, and said, 'neay, neay, neay, neay;' says I, 'Mr. Parish, do you want to know about the horse, this morning?' 'emh, emh,' he assented with a nod of the head; I told him the horse was well, and that I liked the horse; then he put his fingers again, 'neay, neay, neay;' said I, 'Mr. Parish, you want to know if there is going to be a trade?' he assented again

by a nod of the head; then I told him the man would trade; then he did just the same as before, putting up his fingers, 'neay, neay, neay,' or 'aney, aney,' I disremember which, as much as to say, what I thought of the difference to boot; I told him I wouldn't interfere; wouldn't take it on me, but leave it to Mr. Henry Delafield." (II. f. 2166–'8.) At another point he says, describing the sign calling for his idea of the difference in value to be paid, "Then he held up the fingers again, as much as to say he wanted me to interfere; I told him I would not interfere in the price at all, but leave it to Mr. Henry Delafield; Mr. Delafield and Brown made the bargain themselves." (II. f. 2174.) The summary of the coachman's opinion is, that Mr. Parish understood him; "Yes, I am confident of it." "His mind towards me was the same as when he could speak; I never saw no change towards myself." (II. f. 2190, '91.)

The butcher's shop of Case & Vandewater, only a few steps from Mr. Parish's house, and the oyster-stand of Story, also near by, were the only places at which Mr. Parish, through nearly seven years of his disability, is shown to have ever conducted any sort of out-door business without the presence of Mrs. Parish; and in his visits to these two places he was invariably accompanied by his servant. "I think," says George Simmons, "the first of his going to market was either in June or July; [1850;] after that it became habitual; if the weather was fair he went every day;" (I. f. 1698;) "I cannot," says Simmons, "tell how his first visit to the market happened." "We were walking in the alley-way, and he proceeded till he got to the market." "He went in; he and I." "He looked around; he showed no more interest than pointing to certain things that were in the shop." (I. f. 1720.) "I think," says Whitfield Case, the market-man, "Mr.

Parish commenced dealing with me in the fall of 1848; before his attack, he made a practice of coming to market himself;" (I. f. 1889;) "he began to come to market himself again some four, five, or six months after his attack; he generally had a young man or waiter with him." (I. f. 1890.) "During the time he came on foot, a young man had him by the right side; he would generally fetch him in the market, set him down on a chair; we generally used to take chickens, birds, mutton, beef, lamb, and various articles up to him, as he sat in the chair; we used to say, 'Mr. Parish, do you like that?' he made a sound, raising his left hand, and shaking his head, sometimes laterally, and sometimes vertically; he would sit there sometimes half an hour, the people in the shop fetching him various things to look at all the time, except such spare time as we had to wait on other customers; we never could find out rightly what to send him; we would send him round birds, chickens, ducks, and whatever we thought he had been in the habit of buying before, and Mrs. Parish would send back what she didn't want. During the summer months, from about the middle of October, as near as I can remember, he generally came in a carriage, accompanied by Mrs. Parish; this was after they had left town for the country-seat at Hell Gate." (I. f. 1890, 1891.) "I generally used to ask him and her both, as they sat in the carriage, whether they would have this and that article; he would then generally make motions with his head and hand, to the articles as I would take them out, accompanying these motions with his voice, pretty much the same as before, only he would make his head go down. Mrs. Parish would generally put her head over the carriage, and tell me to send down such and such articles." (I. f. 1892, 1893.) "We used to take them out, more to please him than any

thing else; we never could tell what articles he did choose, in particular, at all." (I. f. 1893.) "On one or two occasions, when they had been there for marketing, when she ordered the driver to drive on—drive away—the moment the carriage would start, I, on one occasion, saw him raise up and try to catch hold of her by one side of her hat; she said, 'Michael, go on,' to the man in front." (I. f. 1894.) Again, about his purchases, "She would generally lean her head over the carriage and tell me not to send them." (I. f. 1902.) When he came on foot, "We never could tell when he was through; he would sit there till the waiter would take him away." (I. f. 1894.) As to his mind, "I hardly know how to answer that question; I never could make him understand any thing at all; of course I could not tell what he thought." (I. f. 1895.) The same witness elsewhere says of Mrs. Parish, "She said 'I must not send the articles; Mr. Parish did not know what he wanted;' (I. f. 1903;) she has frequently spoken to me so while he was sick—in 1853 for one. (I. f. 1905.) Mr. Parish had nothing to do in settling the market-man's account. "Sometimes one of the Messrs. Delafield would fetch a check, and sometimes I would go to the house and get a check from Mrs. Parish." (I. f. 1903.) Again, "Mrs. Parish," says Wingrove, "always spoke to me before going to market, and would say, 'Thomas, try to get Mr. Parish to do so and so, and get so and so; at some times I would be able to do so, and at other times he had all his own way." "She would say that we had plenty of vegetables coming from Hellgate, and there is no necessity in getting them from the market; but that made no change upon Mr. Parish either, the vegetables and marketing came home, and Mrs. Parish returned several times things that she did not need." (I. f. 1511, '12.) "Mr. Parish would never point to any thing in the

store that he wanted." "Vandewater would take down game and such like, and take them to Mr. Parish, and ask him if he would have that, and so and so; he took the game in his hand and handed it to Mr. Parish; I had Mr. Parish by the arm; Mr. Parish would take the game and put it to his mouth, the same as he did his pants; I thought still it was to smell the game, but I never could find out for certainty." (I. f. 1513, '14.) In directing his attention to what he should get, he would be "sometimes very irritable and passionate; he would not allow me to speak one word, no matter what orders I got from Mrs. Parish; therefore the vegetables were sent home, and Mrs. Parish kept what she wanted, and what she did not she returned, sometimes;" (I. f. 1515;) and in opposing him, "he would use his elbow thus, jerking it back, and hitting me with the jerk, and saying 'yaune, yaune, yaune,' as I understood that he didn't want me to say any thing, or interfere." (I. f. 1515.) During the service of Wm. Brown, from October, 1851, till November, 1854, the visits to the market still continued. "Having the article in his hand, or on the bench, or block, or where it may be, [he] would point to it, and make a motion to inquire of the parties with a sound, as well as the motion of the hand;" "as near as I can describe, he would say 'ne, ne, ne,' in quick succession; 'ne, ne, ne,' as I would spell it; if the article should be expensive he would make another sound, as of surprise, 'hoh.' (The Surrogate describes the sound.) There would be surprise, though with good feeling, as if it were a ridiculous charge." (II. f. 1310, '11) In James Clarke's time of service, from December, 1854, till April, 1855, these visits to the market appear to have been discontinued; nor did Mr. Parish during this period walk out with Clarke, unless when merely helped by Clarke to the carriage door. He at this time

used neither stick nor crutch, but says Clarke "I went under his left arm, and lifted him up by the left arm." (I. f. 1738, '9.) He still, however, kept up his habit of being driven to his former place of business.

When leaving for a drive, "Mr. and Mrs. Parish would generally want, the first thing, to go to the store," (I. f. 1739,) "and he would make a sign, 'neay, neay, neay,' and point down towards Broadway." (I. f. 1740.) "She would tell me to go to the store, and wherever in Broadway she wanted to stop." (I. f. 1741.) When in front of the office door, if Mr. Kernochan or Mr. Folsom were there, "Mrs. Parish directed me to say 'Mr. Parish wanted them.'" (I. f. 1741.) But Clarke says he was never directed to ask Mr. Daniel Parish to come down and see her or his brother. (I. f. 1742.) It appears, however, that Clarke did mention the fact of Mr. Daniel Parish's being in the office. "I spoke pretty loud, and the way in which I usually answer;" and "she said to me, hush, hush, hush, raising her hand." (I. f. 1742.)

Sometimes Mr. Parish would want to go somewhere, says Wingrove, that Mrs. Parish couldn't find out, and neither could I, therefore "it was the cause of a good deal of trouble in the streets;" "and he would point with his two fingers, just as he would elsewhere, and stand up in the carriage and pull the check string, and make an effort to tell the coachman where he wanted to go, but never could find out; perhaps after we had drove a certain distance Mrs. Parish would say that she had found out where Mr. Parish wanted to go, and would go there, down one street and up another, and turned back, still making our way to Union Square, and got home." (I. f. 1521, '2.) Mrs. Parish having stepped for a few moments from the carriage, "I had directions that Mr. Parish was not to go to the store in Mrs. Parish's absence; but the moment that

Mr. Parish got Mrs. Parish in at Root's, in Broadway, to have a likeness taken, he ordered the coachman to drive direct, he pointed downwards, that was all he could do—down Broadway; the coachman had the orders as well as I had, so that we could not do anything against the wishes of Mrs. Parish; Mr. Parish got into a violent passion, and the coachman was afraid that he would break the windows, and so was I; there was a large crowd collected in the street around us, and I had to run up stairs and bring Mrs. Parish down." (I. f. 1523.) "Apparently we understood it, that is, the coachman and I, to go down to the store; we might be wrong and we might not, but that is as I felt it at the time, as we had the orders from Mrs. Parish not to let Mr. Parish go to the store." (I. f. 1525.) The coachman, Edward Clark, speaking of this incident in front of Root's door, says of Mr. Parish, "He put down the window, the door, the glass, and hallooed 'neay, neay, neay,' and thumped the side of the carriage with his hand, then the valet he jumped down, and Mr. Parish said 'neay, neay, neay,' raised his hand and pointed." (The witness here raises his hand, and moves it while raised to and fro from his person, in several successive motions.) (II. f. 2221.) Again, "he pointed his hand out of the window just so, [extending the arm and hand straight out,] and hollered, 'neay, neay, neay,' and knocked the door two or three times; this was the window towards the curb." The valet, "He went in and came out, and told Mr. Parish Mrs. Parish was coming." When this was told to him, "Well, he got a little excited." "He hallooed 'neay, neay, neay, neay, neay, neay,' until he got a crowd around the carriage, and I got on to the box, and started down the block to get out of the way." "I turned, and by the time I got back Mrs. Parish was out, or coming out, and then the crowd was scattered." (II. f. 2233–'5.)

" On one occasion," says Wingrove, " Mr. Parish went to the attic from his bed-room, which was quite an unusual thing for him to do, and a very difficult and dangerous task to go up there also, as the stairs were very narrow, only room enough for Mr. Parish to go by himself. I persuaded him a great deal to prevent him, but it was of no avail, he would go and did; we went up on our hands and feet the best way we could; when Mr. Parish got his head to the attic door, or trap-door at last, it was closed down, I could not get up to open it; Mr. Parish pushed it up with his head, and we got on the attic; it was very difficult there, as Mr. Parish was too high; his head was touching the boards, or rafters, or beams, which go across; I had to keep one hand on his head and the other on my arm until we got to the wine-cellar door; he apparently looked to see if the cellar (room) was all safe, and the windows perfectly secure; we stopped there a short interval, and examined all the things, the windows and locks up there, and then came down stairs in the best manner we could; it was more difficult to get down than going up, and more dangerous; I had to let Mr. Parish come down backwards and go before him to assist his leg that he could not move; we then came down stairs as usual to the dinning-room; I told Mrs. Parish where we were, and she told Mr. Parish he was taking a nice little walk in the morning; she did not seem to think any thing about our going there, but I thought we were in imminent danger, myself as well as Mr. Parish.' (I. f. 1526–'9.)

Mr. Parish, on another occasion not long after, having had a spasmodic attack, was hurt in walking out of doors after dark. " He had oftentimes went as far as the door, and on one occasion went further; that is, one evening in particular he had one of these spasmodic attacks;"—" he seemed to be very uneasy and unhappy

in his mind, and I was sent for, and took him by the arm and went out into the front hall; he was determined apparently to go out, and I told Mrs. Parish; she came out to the hall with his hat and put it on his head;" "he raised his left hand and threw the hat off his head in the hall, and we went out the front door, and Mrs Parish closed both doors after us and shut us out, as it was a very cold winter's night, and she did not wish to have the doors open; there had been some men working in front of the house during the day-time, and there was a large hole about four feet and a half deep or thereabouts, to the right hand side of the front door, and that is the very place to which Mr. Parish wanted to go; I catched hold of Mr. Parish by the collar of his coat, and told him I would not let him go one foot further; he held very much against me; I told him of the danger that we were both in—falling into the hole; it was covered over with boards, and I was standing upon two of them at the time; I got Mr. Parish turned back to the front door and rung the bell, and got Mr. Parish into the library; I told Mrs. Parish in the presence of the Messrs. Delafield what had occurred; I don't know that there was any answer; I was very much agitated myself." "He had this attack I should say two hours or two hours and a half before this time." (I. f. 1530–'32.)

Mr. Davis, as we have already seen, was told that Mr. Parish had been able to detect errors in his own accounts. The fact pointed out by Mr. Wiley, as already stated in reference to some verbal omission in a note, has some bearing on this point. But there is little, if any thing, further in support of such ability. In the interview at the counting room in Water street, about the 7th or 8th of January, 1850, soon after Mr. H. Parish began to ride out, his account books and his balance sheet appear to have been presented to him

for inspection. "On the 7th day of January, I think it was, says Mr. Folsom, "I had the balance sheet completed, went up to Mr. Parish's house to deliver it to him, and found that he, with Mrs. Parish, had gone out riding; I immediately returned to our office, and there found assembled Mr. and Mrs. Henry Parish, Mr. Daniel Parish, Mr. Kernochan, and Mr. Delafield. I handed the balance sheet to Mr. Henry Parish; I took I think the day-book which contained the record of our transactions since his attack; held it before him, he being seated in a chair; explained or spoke of the different entries, Mr. Kernochan at the same time explaining them; among these entries was one in which I charged myself with $500 as for services to a certain date, on seeing which Mrs. Parish turned to her husband and remarked, 'well, had I better give him the check I brought down?' or words of similar import; the conversation then turned upon the matter of the will, and she was somewhat excited or angry, apparently, when speaking of it." (I. f. 1149–'51.) On another occasion, "one of the accounts," says Mr. Kernochan, "was brought down in a carriage, in consequence of a mistake in addition or subtraction, the next day perhaps, after it was rendered. Mr. Parish may have looked at that account on that day: but with that exception I never saw him look at any of the accounts." (I. f. 1056.) "It was produced on Mrs. Parish's lap, or out of her reticule, and he took it in his hand and looked at it, but he did not point out the mistake, because that had been pointed out by Mrs. Parish." (I. f. 1056 '7.) Again, James Mulligan, the horse-shoer, had made an extra charge for shoeing a vicious horse, whereupon, says he, "Mrs. Parish objected to paying the fifty cents extra." "Mrs. Parish handed me the bill, and I pointed out to her these items. I handed the bill to Mr. Parish, and I think

she stated that he did not understand it." (I f. 1874, '5.) "I think the words she said were, that he did not understand it." (I. f. 1876.) "I think it was in the autumn of 1851, Mr. and Mrs. Parish called with the bill. I could give the correct date by referring to my accounts; I may vary in the year, 1850 or 1851." Another still more striking evidence of Mr. Parish's inability to correct his own accounts, or to detect errors in those of others, is furnished by Mr. Lord; we may have to notice this again, as we proceed; it relates particularly to the transactions connected with the making of the second codicil in 1853. (I. f. 300.,) Mr. Parish's powers of discrimination and analysis do not appear to have been sufficient even to comprehend a compound question, or one calling for a reply to two propositions embodied in one series. Of the questions put to him by Mr. Lord and others, and to which he gives what appears to be an intelligent answer, there were none of this sort. "I do not recollect," says Mr. Lord, "any questions which would not be replied to by a simple affirmative or negative. I have no recollection, therefore, of his assenting to part of a question and negativing another part." (I f. 513.) So also Mr. Davis, when questioned as to Mr. Parish's power of analyzing a complex question, and of giving understandingly an affirmative answer to part, and a negative to another part, says, "I am incompetent to say how far he was capable." (I. f. 623.) His powers of discrimination appear to have failed even in the selection of his different articles of clothing. In selecting among several pairs of pantaloons, "He hesitated a little," says Wingrove, "to see what I should say, apparently to me; the pair of pants he was going to change, and wanted to have, he would come in contact with again in going over them, and he would seem satisfied with them, although he wanted to change at first; it struck

me he did not know the difference betwixt." (I. f. 1510, '11.) How far discrimination may have been exercised in the following instance, must be left to the judgment of the reader—remembering that the Rev. Dr. Taylor made frequent and sometimes urgent calls upon the better feelings of his parishioners, and that Mr. Parish's charities before his illness were not in keeping with his liberal gifts to Dr. Taylor afterwards. In reference to the Eye Infirmary, Dr. Taylor "called upon Mr. Parish with a subscription book, upon which there were three subscriptions of $2000 each."—"I observed," says Dr. T., "Mr. Parish, you have been blind and now are dumb, and my wife is deaf—you and I must do what we can to prevent other people from being either blind, or dumb, or deaf—he replied instantly! 'yah, yah, yah, yes, yes, yes!' reaching outhis hand for the book, he laid it upon a chair before him and turned over the leaves with his finger: finding nothing written but the three subscriptions already mentioned, he looked up to me with an inquiring expression, as much as to say, is there nothing lower than that? I replied, 'nothing, Mr. Parish, less than $2000 to me, when it gets below that I will give up the book,' he replied, 'yah, yah,' and striking the place on the book where the subscriptions of $2000 each were, with his finger, he looked at Mrs. Parish in his usual way when he wished her to do any thing for him; she asked, 'you wish me to put your name down;' he replied, 'yes, yes, yah, yah, yah,' striking the place. She said: 'but perhaps, Mr. Parish, you would like to give more;' he immediately said 'no, no, no, no,' very emphatically striking his finger on the book. He had a very emphatic way, adds Dr. Taylor, "when earnestly bent on any one thing, and nothing but that; he did not wish to be diverted from it. Mrs. Parish wrote his name with $2000 annexed, handing the book back to him;

he looked at it to see if it was right, to see if it was what he wished. He signified his acquiescence, and handed it back to me himself." (I. f. 3355–'8.) Somewhat after the same manner was his subscription of $400 towards relieving the Rev. Dr. Taylor from his own personal outlay, towards paying the expenses of an organ for the Chapel of Grace. (I. f. 3352–'4.) The donation towards the organ was in April, 1852, that to the Eye Infirmary in the year 1854, or the early part of 1855, (I. f. 3359,) and as late as January, 1856, Dr. Taylor's appeals for charity were answered by a check of $500, signed by Mrs. Parish, at Mr. Parish's request, with "an expression of pleasure beaming from his countenance," while the doctor was narrating to him in what way his donation might be of service to the Church. (I. f. 3360–'64.)

Simple affairs of daily life, and incidents of familiar conversation, he thus appears to have occasionally noticed, and perhaps to have comprehended in some degree. Mr. Folsom, when asked, "Do you remember standing at the carriage door with your hat off, and Mr. Parish making a motion for you to put it on?" replies, "I do very well; I supposed I really understood what he meant; he pointed at my head, which was uncovered, and I understood him to mean by that for me to put my hat on." (I. f. 1348.) Major McDouall and other gentlemen had been spending the evening with the family in social conversation, "and as Major McDouall was about to leave the room," says Dr. Delafield, "Mr. Parish beckoned to Major McDouall to return; made him understand that he wished him to return; he did return; Mr. Parish then looked at the Major and then at his wife, again and again, in a manner which all that were accustomed to him perfectly understood; this was Saturday night, and we understood him to request him to dine with him the next

day; Mrs. Parish then asked him the question directly, 'Do you wish the Major to dine with you to-morrow?' to which he answered by repeatedly making affirmative nods with his head, and showing much satisfaction; he also made some little sounds at the time, which I cannot describe; similar things I witnessed time and again, but this happened within a few months, and I recollect it in detail." (I. f. 3025–'7.) Mr. Kernochan also admits that Mr. Parish at times noticed what was passing in his presence. As to difference in his conduct when several were speaking in his presence, there was "Very little, if any; if they talked loud and seemed to be disputing, he was perhaps a litte more regardful of what was going on." (I. f. 1059.) Instances of defective memory have already been alluded to. When Wingrove was leaving the family for a short trip to England and Ireland, to bring out some of his children —he was requested by Mrs. Parish to return as soon as he came back (I. f. 1655), "which," says he, "I did according to promise, and I saw Mrs. Parish and Mr. Parish on my return; I asked after Mr. Parish's health; Mrs. Parish told me he was about the same as usual; Mrs. Parish walked down stairs with me, and I saw Mr. Parish in the front hall, taking his evening walk as usual; Mrs. Parish said, 'Mr. Parish, here is Thomas called to see you.' He replied, 'yanne, yanne, yanne,' as is usual, did not appear to notice me, and walked into the library; I saluted Mrs. Parish and went out." (I. f. 1655, '6.)

"On the 3rd of November, 1849," says the Revd. Dr. Taylor, "I was called to baptize Mr. Parish; I found him in his chamber at his residence on Union Square, I think upon the third story. He appeared a very feeble man. I commenced a conversation with him upon the nature of the ordinance, to which he made no other reply than by bowing his head. The

general appearance of his face would have indicated a lack of intelligence, the muscles were rigid apparently and failed to give expression to his countenance. At first I had my doubts as to his intelligence, but by repeated questions, and he constantly acquiescing, I thought it advisable to proceed with the service. Upon coming to the questions which are proposed to the candidate in our office of baptism, Mr. Parish looked me full in the face to the end of the question, and then bowed his head lowly in acquiescence, and continued to do so to the end of the questions. He then relapsed into his former position, hanging down his head as a deeply afflicted man; but I was left in no doubt as to his understanding fully the nature of the vows he had assumed." (I. f. 3330–'32.) Again says Dr. Taylor, "I had repeated interviews with him between the 3d of November and the 30th of March (1850), and would allude occasionally to this matter of the Lord's Supper; he would always reply to me kindly, but not definitely; on one occasion I was sent for to administer the ordinance, I think it was in February, 1850; the elements were prepared on the table, and I supposed that he was ready for the sacrament; but upon my inquiring whether it was his wish that I should now proceed to administer it, he replied in a most affecting manner, 'No, no,' and then attempting to speak with his usual gesticulations, he appealed to his wife and to myself, to understand his reason why; that, he failed to accomplish; and after repeated guesses on our part as to what his wish was, such for instance as inquiring: 'Do you wish your friend Mrs. Payne to commune with you? Do you wish your faithful servant and friend Mary Ann to unite with us? Is this room too public? Shall we go to the chamber where you were baptized?' to all of which he continued to give the same touching reply, 'No, no;' said in a most doleful voice, with tears

streaming from his eyes, and with continued efforts to speak; at length I observed to Mrs Parish, that it was evident that something was disturbing his mind, which we could not arrive at, and perhaps it would be better to postpone the whole matter to another time; he immediately seized upon the suggestion, and reaching out his hand, shook mine most cordially, nodding his head emphatically, that that was his wish, to indicate that that was his wish." (I. f. 3333–'6.) But on the 30th of March (1850) he was more tractable, and to Dr. Taylor's proposition to administer the communion "he replied, 'Yah, yah,' in his emphatic way, nodding his head emphatically, and," says Dr. T., "smiled upon me in a pleasant way; I then inquired if it was his wish that we should now proceed with the sacrament; to that he again replied by nodding his head and saying, 'Yes;' after which I administered the sacrament to Mrs. Parish, and I believe Mary Ann, the servant, and Mr. Parish." (I. f. 3339, '40.) "His manner was very devout, great appearance of humility of heart, and I think he would occasionally make a sound of acquiescence, where the answer could come in; he received the bread in his left hand, and conveyed it to his mouth, and took the cup in his left hand, applying it to his lips as any other communicant would have done." (I. f. 3340.) And as to his comprehension of the ceremony, adds Dr. Taylor, "There was no possible room to doubt that." (I. f. 3341.) "In the earlier stages of his illness he always insisted upon standing, and knelt where it was proper that he should kneel; in the latter years of his illness he would sit during the service; when he sat, the book was usually upon a chair, on the arm of the chair, or a table before him; when he stood he held the book in his left hand, Mrs. Parish reading with him, as any two persons might read together." (I. f. 3404, '5.) As to the period at which he ceased to stand

during the ceremony, says Dr. Taylor, "The precise time I cannot fix, but it was [not] until he grew heavy and weaker than he had been and found it inconvenient to stand; I should say it was eighteen months or two years before his death." (I. f. 3406.)

Though making gratuities under the supervision of his wife, and noticing ordinary occurrences, Mr. Parish, as we have seen, was not judged by those more immediately connected with him, capable of transacting business of any moment independently on his own account. In like manner, business men, where their own responsibility was involved, were unwilling to transact business with or for him, even where he himself appeared to desire them so to do, or where he was brought to them for the purpose. Mr. Ogden, as we have seen, refused to deliver up to him, even at Mrs. Parish's suggestion, the trunk containing his own business papers; Mr. Folsom, in like manner, refused to surrender this trunk, or its contents, except under regular process of law; and Mr. Saml. H. Howard, Secretary of the Manhattan Gas Company, refused, in the presence of Mrs. Parish, to pay Mr. Parish the dividend then due him in that institution, finding him unintelligible and unable to authenticate the transaction by giving a receipt, (I. f. 1790–'96;) and Mr. Floyd Smith, the Vice-President of the said Company, afterwards paying the said dividend to Mr. Kernochan, who rendered the receipt for it on Mr. Parish's account. (I. f. 1864–'6.)

"I should say about the 18th of August, 1849, Mrs. Parish told me," says Mr. Kernochan, "that Mr. Parish was desirous that I should take his power of attorney, and act for him, until he should be restored; Mr. Parish was then sitting up, I believe, in his bedroom; I was told, perhaps by Mrs. Parish, that he was so desirous, not in his presence; I am not quite

certain about that; but I asked Mr. Parish if he wished me to take the power in question, to which he nodded his head, and I left his presence with the understanding between Mrs. Parish and myself that I would accept the power; on going down-stairs, I met Drs. Johnston and Markoe in the library, and asked Dr. Johnston if he thought Mr. Parish's mind was in such a state as to enable him to do business understandingly; he said that he thought that was very doubtful, and Dr. Markoe agreed with him, as I understood him; the interview was very short, not longer than would be necessary to say what I have stated; I went down town to my usual business afterwards, and thought the matter over, and finally came to the conclusion that I would not accept the power, which conclusion I communicated to Mrs. Parish the next morning; I think I gave her as a reason the conversation which had occurred between me and the physicians in the library, as I have stated." (I. f. 853–'5.) Mr. Kernochan, however, both before this time, and afterwards, acted temporarily for Mr. Parish in his business affairs, (I. f. 985, '997), and always as an adviser to Mrs. Parish in relation to her investments. When asked how far in conversations on business he addressed his communications to Mr. Parish, he says: "Only so far as in conversation with Mrs. Parish, and in his hearing I might have recommended operations and investments.' (I. f. 900.) Again says Mr. Kernochan: "I did not think that he knew much; when a person neither writes, nor speaks, nor does much, it is difficult to judge; I don't think that he had much mind." (I. f. 889.) When riding in the carriage with Mr. and Mrs. Parish, or when at the office door, Mr. Parish's wishes could not be readily reached, they were usually interpreted as an invitation for Mr. Kernochan to dine with him. "I think," says Mr. Kernochan, "that was re-

sorted to on all occasions when we could not find out what Mr. Parish wanted by other questions." "I believe he always answered that by an affirmative; there might have been some exceptions to the affirmative; on some occasions he shook his head." (I. f. 882.) But nevertheless, "unless something important interfered, I generally went to dinner, Mrs. Parish urging it." (I. f. 883.) At these dinners the remarks addressed to Mr. Parish were limited for the most part to simple matters calling for little consideration, the arrival of a steamer, the gossip of the city, commercial intelligence, the rates of interest, the stock market. (I. f. 948–'51.) "I don't think that he made any gesture of the head except when he intended to be affirmative or negative, or when I so construed it." "The gesture of the arm was always such as I have before described; his pantomime was very limited." (I. f. 952.) And says Mr. Kernochan elsewhere, "I don't think I ever consulted him on any subject; I only communicated facts to him; expressed my opinion on various matters, as to renting, and other things." (I. f. 997.) Mr. Parish was, after his attack, never more than twice actually within his old counting-room, and never in the office after its removal to the second story in May, 1850; afterwards, in calling, he invariably remained in the carriage in front of the office door. (I. f. 1409.)

In the visits of Mr. and Mrs. Parish at the office door, their business was usually transacted with Mr. Folsom. "In the carriage most frequently Mr. Parish would sit," says Mr. Folsom, "on one seat, and Mrs. Parish on the other, especially on such occasions, when documents and papers were brought and exhibited to me; if a check was brought for me, or a bond upon which I was to collect the interest, it was generally placed beside Mr. Parish on the seat upon which he sat, or in a reticule or bag, and Mr. Parish would fre-

quently or almost always take up the package, but would fail to separate or select the required paper; Mrs. Parish would pick it out, and hand it to me." (I. f. 1179, '80.) "I think through that whole period, [from his attack in 1849 onwards,] he was not far removed from an imbecile, still retaining some memory, some lingering ideas of former business habits; constant efforts to express himself, without the ability so to do, without the mind to enable him so to do." (I. f. 1185.) "It was about 1852, I can't fix the time exactly," says Mr. James Campbell, "it was about that time; the way I fix that time, I was building the house I now live in in 1851 and 1852, was every day at the building, and in the habit of strolling around the upper part of the town; I saw Mr. Parish out in the court-yard of the house, in front, on 17th street, he had hold of the leader that conducts the water from the roof, and there was a lady out there and a man waiter, and they were trying to get him away from this leader; Mr. Parish was uttering a cry, a peculiar kind of cry, and finally they took him away; Mr. Parish was without his hat, was bare-headed; that is all I saw: this was in the forenoon some time." (III. f. 1875, '6.) This transaction occupied "a minute or two, I suppose." As to the cry, "it continued while they were taking him into the house." No gesticulations were noticed: "No, except the cry; he appeared very angry because they took him away from there; that was the appearance; he was mad, angry, because they took him in—lugged him away from the leader." "I thought he was idiotic simply from what I saw." (III. f. 1878–'82.)

20th.—*Summary of Opinions concerning Mr. Parish's Capacity.*

Having already cited the opinion of several of the witnesses in relation to Mr. Parish's degree of intelligence, it is but proper to allude to the estimate of others on the same subject, bearing in mind the character and position of the individuals, their relation to Mr. Parish as a man, or to his family, and their opportunities and means of judging; bearing in mind, also, their relation, as witnesses, to the Proponent, or Contestants, by whom they may have been respectively called upon for their opinions:

The Reverend Dr. Taylor, we have seen, was in the habit of visiting Mr. Parish as a parishioner, of administering to him the rites of his religion, and of receiving his benefactions for charitable and religious institutions, mostly, if not all, given at Dr. Taylor's solicitation. "I have not myself the least doubt of the soundness of his mind," says Dr. Taylor, "nor could I have supposed any intelligent person could doubt its soundness. (I. f. 3389.) Mr. Davis, whose intercourse with Mr. Parish was simply social, mostly Sunday evening calls, says, "He always gave evidence to me of unimpaired mind, but an incapacity of expressing by articulate sounds what he exactly desired, unless the question was put calling for the answer, 'yes or no.'" (I. f. 624.)

Mr. Henry Delafield being asked, "When Mrs. Parish went out to visit in the evening after your brother William's death, did not you always accompany her?" replied, "No; she seldom or ever went out after my brother's death." But he is again asked, "When she did go out after your brother's death, why did you not accompany her?" To which he replies,

"To take care of and amuse Mr. Parish." Once more. When she did go out prior to William's death and after Mr. Parish's attack, "did not one of you always accompany her?" And to this he replied, "When she did go out one or the other did accompany her; it was very seldom she did go out." (III. f. 247, '8.)

The opinion of Wm. Brown, the nurse, cited on the part of the proponent, has been already stated; and for reasons already given, that of Fisher can hardly be accepted as trustworthy. Simmons, who nursed Mr. Parish from December, 1849, till October, 1850, speaking of his intellect, says, "I should not think it perfect." (I. f. 1717.) Wingrove, serving till September, 1851, says, "I consider Mr. Parish very much astray in his mind, and sometimes much more than at others." "I judged generally from his conduct and actions with myself, and facts that appeared before me from day to day; I explained to Mr. Wm. Delafield, as early as the third day of my being in the service, that if I thought that he was engaging me to attend or wait upon a gentleman like Mr. Parish, I would not undertake the situation on any consideration; I said so, my belief being that Mr. Parish was much astray; that was always my opinion, and is now at present." (I. f. 1556, '7.) Clarke, who acted as nurse till April, 1855, says, "In my judgment I think his mind was not right." (I. f. 1752.) Mulligan, the blacksmith, speaking of Mr. Parish's mind, says, "Well, I should think it was rather in a state of disorder." (I. f. 1886.) Austin, the poulterer at Washington Market, says, "I told her I could not make him understand, he was crazy, or not in his right mind; I can't say which." (I. f. 1927.) Case, the butcher, speaks to the same effect: "I could not tell whether Mr. Parish understood me or not; I never could comprehend him." (I. f. 1900.) The unguarded expression of either Mr. Henry or Mr. Wm.

Delafield at the tea-table, cited by Wingrove, "Oh, he does not understand," (I. f. 1553,) has been denied on the part of Mr. Henry Delafield, both for himself and the others present; (III. f. 150;) but the veracity of Wingrove has in no other respect been in any way impugned. Mrs. Parish's own admission to Case and Mulligan also stand unchallenged. To Case her words were, "she said I must not send the articles, for Mr. Parish did not know what he wanted." (I. f. 1903.) And to Mulligan, on presenting his bill to Mr. Parish, "I think the words she said were, that he did not understand it." (I. f. 1876.)

The medical evidence was all called for on the part of the proponent; and was furnished by the physicians, still living, who had at any time subsequent to the attack in 1849, attended Mr. Parish professionally. Dr. James C. Bliss, who saw him only for a few days during the temporary absence of Dr. Delafield, (I. f. 3303,) is now dead. Dr. Francis U. Johnston's attendance was also for the most part as the substitute for Dr. Delafield, and was rendered in consultation with Dr. Markoe. Drs. Abram Dubois and George Wilkes saw him only a few times, and then only in reference to some temporary trouble, or imagined trouble, of the right eye. Dr. Delafield had, throughout, the principal care of the case; and his services were rendered in connection with those of his partner, Dr. Markoe. Mr. Parish received medical attendance from no other persons than those now mentioned.

Dr. Francis U. Johnston gives his own age to be sixty years; he states that he has been in practice thirty-six years, and that he has been for twenty-two years a physician to the New York Hospital. Of Mr. Parish, he says, "I visited him first on the 20th of July, 1849, at the instance, I believe, of Dr. Delafield, though I am not positive—do not remember; I visited him as a

patient." "Every day one or more times, until the 27th of August, 1849; I saw him twice after that, once on the 15th of September, and once on the 21st of September of the same year." "My opportunities were very limited—limited to just what I have stated; he appeared to understand simple questions regarding his health; I cannot say that he might not have understood questions equally simple regarding other affairs." (II. f. 406 to 413.)

Dr. Abram Dubois gives his age to be forty-six; he has been a practising physician in the city of New York for twenty years. He has been for about twelve years officiating as surgeon to the New York Eye Infirmary. Of Mr. Parish, he says, "My personal acquaintance with him commenced in 1853, when I attended him professionally; my attendance began in the early part of the summer; it was shortly before he went into the country at Hellgate, but I have no memoranda to fix the time more accurately." "I was called by Dr. Delafield, and my attendance continued (in consultation with Dr. Delafield) about ten weeks; I should think that would embrace the whole of my visiting; I should suppose I visited him about five or six times during that period; the intervals varied. The attendance was, 'For an affection of his eyes.'" "I should put the two extremes at a quarter of an hour to an hour; probably my first visit occupied an hour; my subsequent visits were much shorter;" and when asked if they were of about uniform length, he says, "I should think they were." After this attendance had ceased, he is asked whether he had any further intercourse with Mr. Parish; to which he answers, "No, sir." Of his first visit, he says, "I was made aware beforehand what he wished to see me for, through Dr. Delafield." "I asked him several questions, such as whether he suffered pain in the eye or

head, and the amount of vision that he then possessed; I think he shook his head to the question as regards pain, conveying to me the idea that he had none; I think his vision in one of his eyes was more or less good; I think it was the right eye, but I won't be positive about that; the vision of one eye, I think, was seriously injured, the left, I think, and that of the other was tolerably good; it was in the latter the motes were; frequently when questioned, he would turn to the motes and fall back upon his peculiar passage of the hand before the eyes with the accompanying sound I described before." As to the other interviews, "I recollect nothing of importance; my interviews were always at the same place, and very much of the same character." He is asked, "From your observation and intercourse with Mr. Parish, what in your judgment was the condition of his mind?" to which he replies, "That would be, on my part, I suppose, a matter of opinion founded on that observation; I suppose I must answer that question simply on that ground; I don't mean to give an opiuion further than that. The condition of his mind appeared to be clear—sound." (II. f. 177–'92.)

Dr. George Wilkes gives his age to be 55. He has been in practice in New York nearly 30 years, and had known Mr. Parish as a friend 15 or 20 years. He has been a surgeon to the New York Eye Infirmary upwards of twenty years. (II. f. 215–'17.) Prior to his professional attendance he had seen Mr. Parish at his own residence in Union Square, he supposes, "fifteen or twenty times;" (II. f. 230;) each time for only "a few minutes." (II. f. 233.) He left for Europe immediately on the close of his professional services, on the 14th of January, 1852; (II. f. 215;) and subsequently to his return he made social calls upon Mr. Parish "three or four times." (II. f. 232.) The pro-

fessional attendance was in consultation with Dr. Delafield. (II. f. 216.) "I should think I made him seven or eight visits at intervals of five or seven days apart." (II. f. 215.) "I was particularly struck with his making me understand the existing symptoms of his case." "If I presupposed any symptom in his case which did not exist, he would immediately object to it by shaking his head, and a marked expression of manner, that that was not the symptom; if I conjectured rightly, he would mark it by his assent." "Both by his expression and the motion of his hand, accompanied with 'yes' or 'no;' he would say 'no, no,' shaking his hand laterally; 'yes, yes,' shaking his hand vertically; so that it was impossible to mistake his meaning: at times he was more emphatic than at others, and then repeated 'yes' or 'no' more frequently." "I was guided partly by the observation of him personally, and partly by information of what had occurred during the intervals of my visits as to the effect and action of the medicines." "Dr. Delafield would ask him questions, and Mrs. Parish would state about his diet; his general health at that time was much better; he was growing very fat, and looked very well indeed; and that made the question of diet very frequent, and it was from Mrs. Parish we derived information on that subject." "He seemed to be aware of what was said, and showed a marked expression of countenance that he was so." "The disease of the eye "was technically called Traumatic Amaurosis, being an affection of the nerve following the operation of cataract." But the sight of this eye was "for all ordinary purposes very good; for instance, he always knew me when I came in the room, put out his hand and shook hands with me warmly: always recognized me." "I think his mind was clear and capable of transacting the ordinary avocations of life." (II. f. 218–'29.) Dr. Wilkes, in passing Mr.

and Mrs. Parish in the street while in their respective carriages, was in the habit of nodding to them. As to Mr. Parish's responses he says, "that varied at different periods of his disease; at the latter period he scarcely ever recognized me, and that also occurred at the last visit at the house; his wife was obliged to tell him who I was, and he did not recognize me until my name was mentioned; he then shook my hand." "This was, I should think, seven or eight months" before his death. (II. f. 235.)

The connection of Drs. Delafield and Markoe with the case has already been referred to. In reference to the evidences of mental capacity, Dr. Delafield says, "When I addressed him he evidently listened to me with intelligence—when asked a question, answering it distinctly and clearly; when I spoke to him on any subject requiring an answer, the look of intelligence with which he listened to me, the recognition of individuals, and the evidently greater pleasure with which he recognized certain old friends than indifferent persons—the circumstance of the ordinary courtesies of life in which he failed as little for a considerable time after his attack, as before; I could probably think of others, but it would take some time." (I. f. 3315, '16.)

Dr. Markoe, in recalling instances by which he was led to attribute mental capacity to Mr. Parish, says, "The one that first occurs to me is this: I was taking tea at the house one evening, and after tea, when I rose to leave, * * he seemed to have something which he was very anxious to say to me; this was a very common circumstance when I was about to leave, and commonly meant to ask me to come again, or when I would come again; * * I found on this occasion that my usual reply that I would come again in the morning did not satisfy him, as was ordinarily the case; Mrs. Parish and my-

self both made many suggestions in trying to come at the subject that was troubling him, he at the same time seeming very much interested in having his thoughts understood; after many suggestions, Mrs. Parish said, 'Perhaps you want me to offer the doctor the opera tickets which we can't use to-night?' this seemed to be precisely the thing he did want to offer me, and he expressed his gratification at being understood very decidedly; that completes that incident; the incidents are so indistinct and so confused in my mind, that I cannot now recall another, which was made the subject of special conversation afterwards." That is, conversation between himself and Dr. Delafield, on the subject of Mr. Parish's capacity. (II. f. 2048–'51.) Dr. Markoe cannot recall any conversation with Mr. Kernochan in reference to Mr. Parish's testamentary capacity. But he thinks the subject had early occupied his thoughts. "It must have been within the first month, as near as I can say." "I cannot say I remember dates; I can only remember that at that time when the subject was first presented to me, I gave it careful consideration; and he possessed in my estimation the faculties of memory, perception, comparison, judgment, and in fine, all the ordinary faculties of the mind." (II. f. 2029.) And as to his mind, "with the exception of the last few weeks, I believe it was sound; the last week or two I should say." (II. f. 2031.) At another place, however, Dr. Markoe very clearly indicates his opinion of Mr. Parish's incompetency. It has reference to the Tin Box, which "Mrs. Parish asked Mr. Parish if he wished her to get for him;" "as soon as this suggestion was made to him he assented to it most vehemently;" but when Mrs. Parish, Mr. Lord, and Dr. Markoe had procured this box from the bank, and it was brought to the house, it turned out, after all, that Mr. Parish did not want it; "he was very much displeased with some-

thing connected with the presentation; the box was not opened, and was by Mr. Lord and myself conveyed back to the bank that same afternoon." Dr. Markoe also observes, "My memory is indistinct as to what was precisely done with it while there (in Mr. Parish's presence); but this I remember, that it was never out of my sight, from the time it left the bank until it was returned there." (II. f. 2023, '4.) And when asked why he kept his eye on the box all the time? he answered, "I had some vague idea that I was to be in some degree responsible for the box and what was done with it, and, therefore, I kept my eye on it." (II. f. 2056.) But this box he knew belonged to Mr. Parish; and if Mr. Parish was at that time in the full enjoyment of his mental faculties, wherein was Dr. Markoe's responsibility about its safe keeping. But Dr. Markoe was again questioned; "You have stated that Mr. Parish possessed the faculties of memory, perception, comparison, judgment, and in fine, all the ordinary faculties of the mind; had he the power of giving utterance or expression in any way, of these faculties, except in answer to some suggestion to him?" And in reply, he gives the following as his reasons: "He would call the attention of anybody that was near him spontaneously, and without any suggestion—an act showing perception, memory, judgment, and many other faculties of the mind which he could thus give expression to, spontaneously. (II. f. 2124.) At another place being asked, "Had he the power of communicating any idea in reference to any subject or object not then before him, and to which he could point?" he replied, "Not directly, no sir; we arrived at such matters by direct questions, to which he could give a negative or affirmative. In *that way he had the power, but in no other.*" (II f. 2118.) In this answer Dr. Markoe disproved what he himself had previously assumed; for, when asked, "To what partic-

ular cause would you attribute Mr. Parish's inability to write, or to make any use of an alphabet as a means of communication from himself to others?" he replied, "I always attributed it to the fact of his being discouraged and irritated at his early attempts at writing and speaking; he *would not try* any others effectually." Again, on being asked, "would not this be an *unwillingness* to write, &c. and not an *inability*?" he replied, "I believe it would; I believe that was the *essence* of the trouble; *unwillingness* to practise and to learn to do these things was the *essence* of the difficulty." (II. f. 2107–'9.) We shall have occasion to revert to this head again in examining the medical theories of the case, as propounded by Drs. Markoe and Wilkes, as well as by Dr. Delafield. In the meanwhile, there are other questions connected with the history of the case, which demand our careful consideration.

PART II.

21st.—*Mr. Parish's Will, and the Three Codicils, considered.*

Mr. Parish, before going to Europe, and while yet in the enjoyment of all his faculties, executed his Will, in duplicate, on the 20th of September, 1842. In this document, after making liberal provision for his wife, and numerous bequests to his relations and friends, including also her relations, he makes his brothers, Daniel Parish and James Parish, his residuary legatees, share and share alike, and in case of the decease of either, his share to go to his lawful issue. Articles first and second of the will specify the property to be

assigned to his wife; and article thirteenth grants the remainder of the estate (after all the devises, bequests, or legacies therein before specified shall have been fully paid or provided for, and the other provisions fully complied with) to the two brothers, as above named.

Mr. Charles G. Havens, of the law firm of Griffin & Havens, had in charge the preparation of this will, and states: "In relation to the drawing and execution of this will, I have to say that Mr. Parish called upon me as the partner of Mr. Griffin, at the office, during Mr. Griffin's absence, I think, in Europe; he stated that he was going to Europe to be absent some time, and he wished to have his will drawn and executed before he left, and requested me to draw it; my impression is that his calling upon, and the drawing, revising, and executing the will, ran through a period, I should think, of about two weeks." (I. f. 747, 751.) "I had very frequent consultations and conversations with him during this time, in relation to the provisions of the will; he was in my office almost daily, talking about it, until the will was executed; the will was executed in my office in the presence of Mr. Saunders, who was the scrivener of our office, and myself; Mr. Parish wished the will to be executed in duplicate, for one reason, that he was going abroad to be absent some time, and wished to take one copy with him." (I. f. 752, 753.) After their execution, "both papers were handed to Mr. Parish, and he took them away; I don't recollect that he stated what he was going to do with them; his mind was perfectly sound; I say the same as to his memory and understanding, in every respect; he was under no restraint whatever, and the matter was done with the utmost deliberation and consideration, much more than in any other case which occurred during my practice; none of the dispositions

were made at my suggestion, they all proceeded entirely from himself." (I. f. 754, 755.) "As to the thirteenth clause, that was not my suggestion; there was no suggestion that emanated from me, in any shape, in the whole business; I have a distinct recollection that he suggested that clause, and I can remember something he said on that subject; during the communications with him in relation to the provisions of his will, he spoke more distinctly of Mr. Daniel Parish than of any other person, with the exception of his wife, and said that Mr. Daniel Parish had been his partner a long time, that they had made his money together, and although he, Daniel Parish, was a man of handsome fortune himself, he had a large and expensive family, and he, Henry Parish, seemed to feel particularly anxious that Daniel Parish and his family should be provided for liberally in the provisions of his will; he appeared to be very modest and diffident as to speaking of the amount of his estate; but in speaking of the value of different portions of his property disposed of by his will, and what the parties would probably receive under it, I got the impression his estate was not much short of a million; he did not tell me it was a million, but I got that impression; perhaps, in saying that I made no suggestion, I ought to remark that the only case in which he seemed to wish my opinion was in relation to the provision for his wife; that he spoke of several times during our conversation; he stated distinctly that he wished to make a very ample and liberal provision for his wife; and after enumerating property he thought of giving her, he asked me whether I did not think that was an ample and liberal provision for her. I told him he was much the best judge of that, but I thought it was; he seemed to be anxious to feel himself satisfied that he had abundantly provided for her; he spoke several

times emphatically. I remember, even after the will was finally engrossed and ready to be executed, he spoke of it again, mentioning the circumstance, on these occasions, that they had no children." (I. 768–'71.) Mr. Henry Parish, at that time, did not, to my recollection, inform me as to the pecuniary circumstances of his brother James; he may have done so; I think that he said he did not wish to make a distinction between the brothers in the thirteenth clause, although he spoke more warmly of Daniel and dwelt upon him, on account of his having been a partner, and having a large and expensive family; he seemed to speak more distinctly of Daniel because they had been associated in business together, and made his money together," (I. f. 776, '7.) "When Mr. Parish spoke of the amounts he wished to give to the Delafields, Mrs. Parish's brothers, by his will, [each $10,000,] he said he thought that amount would be sufficient to show his respect for them as his wife's brothers, particularly as they would undoubtedly receive what he had given to his wife, on her death; this was during the conversation as to the preparation of the will." (I. f. 781.) "When he proposed to take one of the duplicates of his will abroad, he gave as a reason that he should be absent some time, and something might occur to make it proper for him to add a codicil, and it would be desirable to have the will." (I. f. 772.) "I saw him after his return from Europe, twice, in my office; the first time he called, without being able to state his exact words, he stated in substance, that he thought of making a codicil to his will, as some changes had taken place during his absence abroad, from death; that he had not yet made up his mind definitely as to the proposed alterations, or as to the codicil, and that he would see me again before long on the subject. As I drew the will, he thought I had better draw the codicil, Mr.

Griffin being then again absent from the city, I think in Europe." (I. 755, '6.) "He asked me, in that conversation, whether the making of a codicil would in any way affect the main features of the will; affect the will itself, except as altered by the codicil. He either stated to me, or I have a distinct impression from what he said in one or both of these interviews, that he did not contemplate any very material alteration of his will. The only subject that I recollect his speaking particularly of, was the Barclay street house and the Union Place property. I can't say that I have a distinct recollection of what he said in relation to these pieces of property, but my impression is very strongly this, that he wished to substitute the Union Place property for the Barclay street property, in the provision for his wife, in consequence of Barclay street not being a desirable place of residence for his widow, but this thing was not definitely spoken of because he was to see me further on the subject; one reason for not considering it further on the first occasion was, that he was going out of town to be absent a short time, and had just returned from Europe; after his return to town he called again and had a very brief conversation with me upon the subject, and said he would see me again; that is all I recollect on the subject; that, I think, was the last time I ever spoke with him. Mr. Griffin died, I think, 12th January, 1852; I ceased to be his partner in 1845 or 1846." (I. f. 756–'8.) The same witness further states that, "the conversations about the codicil occurred in 1844, I think. The first conversation occurred in the latter part of July, just after his return from Europe; that he then left the city for the remainder of the summer; and the second call was very soon after his return to the city." (I. f. 764.) "After I dissolved business with Mr. Griffin, he continued in law business, at the same place, until his

death." (I. f. 773.) Mr. Wm. E. Saunders, who witnessed the will of Mr. Parish, as above stated, says, "I was in the office of Griffin and Havens, the 20th of September, 1842, as clerk; the will and duplicate now shown are in my hand-writing." (I. f. 721.) "I was mainly an engrossing clerk." And when asked, if for several years after the execution of the will Mr. Parish was in the habit of frequently visiting the office of Griffin and Havens? says, "He was." (I. f. 730.) The house in which Mr. Henry Parish resided prior to removing to Union Square and which in the will was originally given to Mrs. Parish, is known as No. 49 Barclay street, and was sold by Mr. Parish in 1847, or thereabout, for $12,500. (I. f. 831.) The property at Union Square, according to Mr. Kernochan's estimate, was in 1849, or about the time Mr. Parish became paralytic, valued at from $100,000 to $120,000, (I. f. 834,) and his property in Wall street at $90,000. (I. f. 834.) The granting of the real estate in Wall street, as an offset against that in Barclay street, which by will had been assigned to Mrs. Parish, is not alluded to in Mr. Parish's conferences with Mr. Havens; and, as we have already seen, he was in hesitancy as to the propriety of appropriating to her use even the property in Union Square. The intention of making a codicil to that effect was twice deferred; and though Mr. Parish was in the enjoyment of all his faculties for nearly six years after his return from Europe, he appears never to have executed any such codicil; and, notwithstanding his several threatenings of apoplexy, he was at length overtaken by the ailment which permanently disabled him from the active duties of life, without ever having made up his mind to alter his original will, and without having in fact altered it. "Henry and Daniel Parish," says Mr. Kernochan, "purchased ground in Washington Place,

perhaps about 1840, for the purpose of building together, side by side. In consequence of some discovered or fancied defect in the title, they got rid of that purchase. During Henry's absence in Europe, in 1843, or in the winter of 1843–'4, Daniel Parish, as I understood from both of them, in pursuance of an understanding between him and his brother, before the departure of the latter for Europe, purchased grounds for both of them on Union Square, not adjoining, but near each other. Daniel does not own the lots on Union Square at this time; he disposed of them after his brother was attacked with paralysis, in 1849 or 1850, I believe; those two lots were about fifty feet apart. I was as intimate with Henry Parish as I could be with any man. I was always intimate with Daniel Parish. Henry was nearly a year older than myself, and I think completed his 68th year in January last (1856). Daniel was said to be twenty-one years of age in 1818, when he went into business; he is now (in 1856), I think, fifty-nine. It was on the 19th of July, 1849, that Henry Parish was attacked with paralysis. I never knew the slightest interruption in the friendly relations of Daniel and Henry, down to the time of that attack. I should think their relations were perfectly cordial always; I never knew any difference, or cause of any difference. After his retirement from commercial business, in 1838, Henry Parish was occupied in getting his debts collected, and closing up his business transactions; that was all the occupation he had, except managing his own estate. He made no investments except in public stocks, for some time, and lending money on bond and mortgage, and so forth. The funds of H. and D. Parish were not separated, and the investments were made for joint account during this period. Daniel was occupied during the same period in the same way. They had a place of business together in Water street, No. 126, an office

simply, and where I also kept my check-book, and attended to what business I had to do." (I. f. 826–'9.) "They kept all their books, the books of their old concern and their present books, in that office. That was the common place of meeting of all three of us, every day when we were in town. They kept a bookkeeper; George W. Folsom was their bookkeeper. Daniel Parish and myself still continue to occupy an office together, and Mr. Folsom is still there as bookkeeper." (I. f. 830.)

22d—*Mr. Parish, after July*, 1849, *under the influence and subject to the guidance of those immediately surrounding him.*

Mr. Henry Parish, as already shown, was taken home permanently disabled on the 19th of July, 1849, and measures were at once taken by Mrs. Parish, under the direction of Mr. Parish's physicians, for his proper seclusion from visitors, and keeping the house quiet. Her instructions to the waiter who attended upon the door were, however, more particularly pointed towards the exclusion of Mr. Daniel Parish and his family. "Mrs. Parish," says Michael Quin, who was there waiter at the time, "gave me particular orders not to let Mr. Parish in, that is the brother, Mr. Daniel Parish, or any of his sons, or Mr. Dillon, his son-in-law." (I. f. 1806.) "She told me that she didn't want to see any of them in." "I got those orders immediately after the doctor's being with him—I mean the day after Mr. Parish was attacked." (I. f. 1806.) As to Mr. Daniel Parish, "he called different days; I told him he could not come in." (I. f. 1806.) And as to Mr. Dillon, "I did not let him in." (I. f. 1807.) When cross-questioned as to the exact character of his orders, Quin said, "Her language

was, Mrs. Parish told me not to let Mr. Daniel Parish, his brother, or any of his sons, or son-in-law in, whatsoever; she did not like to see them." (I. f. 1837.) Again, "Well, she told me she wanted to keep the house quiet; not to allow Mr. Parish's family to come in, but her own came in and out, and she didn't have nothing to say to them." (I. f. 1838.) Quin was again asked, "Did Mr. Daniel Parish call at any time after these orders, and get in?" and he answered, "Yes." "Mr. Daniel Parish called one day, after the doctor's going out. I heard the doctor say Mr. Parish was very low, he was afraid he would do no good. Mr. Daniel Parish called at the door, and asked me how his brother was; I told him if he did not go right up and see his brother now, when he would call again he would not see him alive, according to what I heard the doctor say. I showed him up stairs, and after going up stairs I pointed at the room where his brother lay, where his brother was. When he went in, I heard Mrs. Parish's bell ring, and went up stairs to Mrs. Parish. She asked me how did Mr. Parish get in? I told her I opened the door, and he asked me no questions, but passed right on, and I did not like to stop him. She told me to be very particular the next time he came, not to let him in." (I. f. 1807, '8.) "Mrs. Parish told me to go into Mr. Parish's room, to see what Mr. Daniel Parish was doing. I saw him having hold of his brother in the bed, by the hand." Daniel Parish had not before seen his brother since the attack, "not," says Quin, "to my knowledge." (I. f. 1809.) And this first interview after the attack was—"I should think it was about a month, between a month and five weeks." (I. f. 1809.) At this time "her two brothers used to come in morning and afternoon to see him, frequently coming in from the country, going up and down town; one of the brothers used to call in occasionally." (I. f. 1809, '10.) "He was

carried to his own bedroom at the time of the attack; that room was on the third story," (I. f. 1798,) and, "to the best of my belief, it was about a month or six weeks before he left that room." "The first time we used to carry him in a chair down stairs," (I. f. 1798,) and when down stairs, "he used to come in the library, the basement room," (I. f. 1800,) and "he used to sit in another chair, a big chair." (I. f. 1800.) This transportation chair was afterwards used from time to time, "on occasions, in case he felt tired;" (I. f. 1801;) but after the first employment of it, uniformly only "for some days." (I. f. 1801.)

The efforts on the part of Mrs. Parish to procure the duplicate copy of Mr. Parish's will from the custody of Mr. Folsom, have already been referred to. "I think," says Mr. Kernochan, "some time in December, [1849,] Mrs. Parish told me the will had been taken from the box containing his papers at the bank; that was the first I had heard; I don't recollect hearing it before from any other person; the first time afterwards when I saw Mr. Folsom, who had charge of the tin box, and had the key of it, I asked him about it, having heard the fact at Union Square." (I. f. 861, '2.) Mr. Folsom's action in this matter has already been related. The will was finally delivered to Mr. Parish by Mr. Folsom, in the presence of Mr. Kernochan, January 7th, 1850. (I. f. 862.) In connection with this, says Mr. Kernochan, "Mrs. Parish told me that Mr. Daniel Parish had taken the will from the box; I told Mrs. Parish I did not believe that he had any agency in the matter; that I gathered from Mr. Folsom." (I. f. 863, '4.) The latter, however, should be allowed to speak for himself. After the written order with the alleged signature calling for the tin box in which the will was kept had reached Mr. Folsom, and been submitted at the bank to the cashier, Mr. Ogden, Mr. Fol-

som resolved to take up the trunk himself rather than to allow it to be sent by other hands. "Because," says he, "in taking it up myself, I was very certain I should bring it back; and if I sent it up, it never would come back." (I. f. 1259.) He "had no idea that Mr. Parish wanted it," (I f. 1259,) but he was under the impression "that Mrs. Parish was determined to have got hold of it some way or other." (I. f. 1259.) This was his own conclusion derived from the facts connected with the affair. "It was entirely so; I had wished for advice upon the subject," (I. f. 1260,) he adds, "from a party, but had not received it." (I. f. 1260.) "I had expected that I should have been advised with, or that a request for advice would have been more or less supplied or complied with." (I. f. 1261.) I expected such advice, says he, "from Daniel Parish, the only party from whom I would have taken advice at that time." (I. f. 1261.) "The precise time I do not remember, but I had mentioned some facts or some occurrences to him in relation to my operations in this matter—Mr. Parish's matters, and he very decidedly informed me that he had nothing to say upon the subject; and he never did give me any advice whatever in relation to the affairs or business upon which I was engaged for Mr. Parish; and I was sometimes much provoked at his not doing so." (I. f. 1261, '2.) This last answer "has reference to his business from the time of his attack to the day of his death." (I. f. 1262.) These circumstances have apparently much connection with the rarity of Daniel Parish's visits to his brother's house subsequent to the call above noticed. He saw him, however, on some few occasions, even at the house in Union Square; once, when suddenly summoned by Dr. Delafield (I. f. 3224, '5) to witness what was then supposed to be the immediate dissolution of Mr. Henry Parish; once, as stated by Mr. Folsom;

(I. f. 1323;) at or about the 16th of October, 1849, and once at least afterwards. They also met together on two occasions at the counting-room in Water street, (I. f. 1689,) about the time that Mr. Henry Parish first began to ride out, or very soon afterwards. (I. f. 1149, '50, and 1367, '8.) At one of these visits an effort was made at the counting-room on the part of Mr. Folsom and Mr. Kernochan, to explain to Mr. H. Parish his balance-sheet, and certain entries in his day-book. (I. f. 1150–'57.) Geo. S. Simmons, the servant in attendance on Mr. Henry Parish on these two occasions, says, "Getting within a few feet of the desk in the store, Mr. Daniel Parish came forward and shook hands with Mr. Henry Parish, saying at the same time, 'How do you do, Henry?' Mr. Henry Parish then made a motion with his head in this manner, [bowing the head once or twice,] saying at the same time, 'yean, yean.'" The other visit "was in relation to some books which Mrs. Parish required Mr. Folsom to give her." This last was apparently the interview mentioned by Mr. Folsom, as having occurred on the 7th or 8th of January, 1850. (I. f. 1149 and 1368.) Mr. Daniel Parish visited Europe subsequent to his brother's attack, Mr. Kernochan thinks (I. f. 881) about five years ago, (say 1851,) and "he was gone the better part of a year, I think," says Mr. Kernochan, "but I am not certain of that; I dare say I mentioned to Mrs. Parish the fact of his going, or intending to go; I now recollect that I did mention to her that he was going, about the time that he went; I think she said she was glad of it." (I. f. 881.) He appears to have called to see his brother Henry again after his return, and in allusion to this call, Wingrove, who was present, states "Mrs. Parish gave me instructions that morning, that if any person should come to the house in her absence, that I was not to leave the room from Mr. Parish, even if Mr.

Kernochan came; that I was to stay in the room until she returned; and it happened to be, that before she was down from dressing Mr. Daniel Parish came there, and two ladies with him; I opened the door when he rang the bell, and let him in; he asked me if his brother was in, and I said yes; I went into the dining-room, and told Mr. Henry Parish, and he jumped immediately as well as he could with my assistance, and got his crutch, and came in the front hall, and there he met his brother very warmly, and shook him by the hand, the same as he met all others, and also the two ladies; Mr. Daniel Parish said to his brother Henry, 'Henry, I am glad to have the opportunity of seeing the house before your death, or I should have no chance afterwards;' these were the exact words; Mr. Parish, as usual, made all the efforts he could to show Mr. Daniel Parish up stairs, and the two ladies; and Mr. Henry Parish, on the other side of the stairs, went up also; he had his crutch under his left arm, and I was supporting his right side; I believe, as well as I remember, we entered the green-house parlor first; and just about that time Mrs. Parish was coming down stairs dressed; she entered the same room where Mr. Daniel Parish and Mr. Henry Parish and the two ladies were, but did not say any thing at that time; Mr. Daniel Parish walked around admiring the rooms, and said that they were very handsome indeed, that he did not see any thing in Europe to go ahead of them, or some words to that effect, and then Mrs. Parish spoke for the first time, or at least laughed; she commenced it with a laugh, a derisive laugh, and said to Mr. Daniel Parish, it showed how little he must have seen in Europe, and from that time words became louder and louder still, and I heard Mrs. Parish order Mr. Daniel Parish to leave the house; that was when he was going down the front stairs; and Mr. Daniel in reply turned round and said,

'Madam, pray who gave you the house? It is my brother's house;' and that is the last words I heard; but there was a great deal said afterwards; Mr. Henry Parish got quite outrageous in my hands; I had charge of him at the time, and I had every expectation we should tumble down stairs; however, we got down pretty close to the last step or two, and Mrs. Parish was standing about the centre of the front hall speaking, or, as I understood her, abusing Mr. Daniel Parish, and he was at the door just going out; when we got to the foot of the stairs Mr. Henry Parish had his crutch; he raised it with the intention of hitting Mrs. Parish, who stood in the front hall; just as he raised the crutch I swung him around from the right side and got him into the dining-room; Mrs. Parish went into the library, and she threw herself on the couch and screamed at the top of her voice, until two or three of the servants came down to her assistance; Mr. Henry Delafield, here present, had just come in from Hell Gate at the time, and he saw that last part; that is exactly as things occurred, to the best of my judgment, from the time that Mr. Daniel came into the house until the time he left." (I. f. 1535–'41.) When after or before this occurrence Mr. and Mrs. Henry Parish were making their calls at the door of the office in Water street, their messenger never came for, or called for, Mr. Daniel Parish. "Never," says Mr. Folsom, "to my knowledge." (I. f. 1407.) And in Mr. Folsom's conversations with Mrs. P. at the office-door, in presence of Mr. Henry Parish, after the will was given up, the subject of the will was never referred to except on one occasion, when introduced by Mr. Folsom himself, as already stated, as a test of Mr. Parish's memory concerning it. (I. p. 362, f. 1265.) Geo. S. Simmons speaks of having seen Mr. Daniel Parish at the house of his brother, (I. f. 1722,) but with this exception, never

saw either of Mr. H. Parish's brothers or sisters at the house. (I. f. 1722.) In riding, says James Clarke, "It was a general rule understood to go to the store; I used to go up to ask for Mr. Kernochan or Mr. Folsom; I would go up stairs, and if they were there I would tell them Mr. Parish wanted them; I knew very well when I went to the store what was to be done; if they would not be there, and Mr. Daniel Parish was there, I would come down, and say to Mrs. Parish that Mr. Parish was there; Mrs. Parish would shake her head then, and say 'not mind,' for me not to mention that." (I. f. 1730, '31.) It was on one of these occasions that "Mrs. Parish said," to the same servant, "'Hush, hush, hush,' something to that purpose." (I. f. 1784.) "She said that if Mr. Daniel Parish was there not to mention it any more when I came down to Mr. Henry Parish." (I. f. 1784.)

Miss Nancy Parish, the sister of Henry, was at the house of the latter a few times, two or three times, during Clarke's period of service, up to April, 1855. (I. f. 1754.) "There was no person seen Mr. Parish," says the same witness, "unless Mr. Delafield or some of his family, unless Mrs. Parish was there; my orders were, if any person came belonging to Mr. Parish, to show them into another room, unless it was Miss Nancy Parish; she could see him, so I was along with them in the room together." (I. f. 1748.) But Mr. Parish's brother-in-law, Judge Sherman, subsequent to his only visit with Mr. Kernochan, in August, 1849, (I. f. 857, '8,) was not received at the house with equal civility, for at his call in company with Mr. Folsom, on the 9th of November, 1849, (I. f. 1318,) "the servant said, 'Mrs. Parish's orders are that Mr. Sherman cannot be admitted;' and to the same request sent up by me, adds Mr. Folsom, the servant brought back the answer that Mr. Parish was then asleep, and no one could be ad-

mitted to see him." (I. f. 1138.) Prior to December, 1849, says Mr. Daniel Lord, "I have a slight recollection as to what the difficulty with Mr. Sherman was; I think I had understood that he had sent persons, and I think one homœopathic physician, to examine Mr. Parish's condition when he was sick; but I have a very little recollection as to what the supposed difficulty with Mr. Sherman was." (I. f. 179, '80.) Mr. Sherman, it appears, about this time had been considering with others the propriety of placing Mr. Henry Parish's affairs in the hands of a legally constituted commission for safe management. "I cannot recollect," says Mr. Folsom, "as to the time of these occurrences, but the subject would naturally come up on board of steamboats or railroad cars by questions or remarks from my friends whom I there met, and all who knew any thing about such matters appeared to be somewhat astonished, where so much property was at stake, that the investigation had not taken place; I cannot state how early after the attack I heard such a suggestion as the question inquired about from Judge Sherman; I have no doubt it occurred at the interview of the 9th of November, but whether that was the first I can't say." (I. f. 1317, '18.)

23d.—*Mr. Parish's Power of Attorney Refused by Mr. Kernochan, and Exercised by Mrs. Parish.*

It has been already shown that about the 18th of August, 1849, Mr. Kernochan had been requested, and on taking the opinion of Mr. Parish's physician, had refused, to officiate for him under the power of an attorney. No such power appears to have been afterwards assumed by any person prior to the 12th of September, 1850. A document of that date conveying

such power to Mrs. Parish was executed, and is produced before the Surrogate. It purports to bear the signature of Henry Parish, and a notary public certifies that William Delafield, the subscribing witness, testified before him that Mr. Parish himself subscribed it. The name of Mr. Parish is subscribed, as if by his own hand, "H. Parish," without the confirmation of the cross. (See Exhibit No. 11, I. p. 297, '8.) III. p. 497. Among the account books and other business documents produced in court by order of the Surrogate, (see the same volume, p. 181,) besides this power of attorney of the 12th of September, 1850, is another, also conveying the same power to Susan M. Parish, the wife of Henry Parish, dated August 2d, 1852; both of these are stated in the minutes of the Surrogate as purporting to have been executed by Henry Parish.

24th.—*The Making of the First Codicil.*

We have already alluded to the fruitless efforts that were made to induce Mr. Parish to express his thoughts in writing, immediately after rallying from the first shock of the paralytic seizure, and the interpretation put upon certain characters which he made, by the aid of those around him, on the flyleaf of a book, about the 15th of August, 1849, when Mrs. Parish "somewhat suddenly exclaimed, 'wills,' with a good deal of emotion, as if it were an unexpected and startling thought to her." (I. f. 304–'7.) We have already alluded to the groundless suspicions on the part of Mrs. Parish, even from the early stages of the attack,—that efforts were in progress for interfering with the legal and regular disposal of Mr. Parish's property; her exclamations to Mr. Folsom on that point being, "well, it is very hard that a man can't have his own," (I. f.

f. 1135,) and "I am sorry there is so much contention about his property before the man is dead," (I. f. 1136.) We have already shown that the subject of making a codicil to his original will had excited Mr. Parish's attention as early as the time of his return from Europe, in 1844, and that after deliberating upon the subject, though aware of the apoplectic tendencies that had been threatening, he never brought his mind to act upon the subject; and, before the paralytic seizure, in fact never did modify his original will in any manner. [See the will, as given in the published minutes.]

The startling thought, however, that came so suddenly upon Mrs. Parish about the 15th of August, 1849, appears to have led to some results, as seen in the note addressed to Mrs. Parish, from Fairfield, Connec ticut, Saturday, August 25th, 1849, by Daniel Lord, Esq., who says—(see Exhibit 5, p. 133.)

"Madam:—I send the codicil which you wish drawn. I have studied to make it brief, that it may spare labor in the reading, and may be more clearly and easily understood. The paper is perfectly valid in form; but it affects so large an amount of property, that it needs the clearest evidence of Mr. Parish's comprehending it, when he executes it. Should you wish my attendance, any messenger leaving in the New Haven train of half-past seven, or at two o'clock, will reach me so that I can immediately come to the city. My address is at Mrs. Skinner's, opposite the church, Fairfield. Yours truly, (signed) D. Lord." At the time of drafting the codicil above alluded to, Mr. Lord had, as he thinks, never seen the original will of Mr. Parish. (I. f. 83 and 84–88.) He had never previously been Mr. Parish's legal adviser, (I. f. 532,) he had never been consulted by Mr. Parish in reference either to his will or any modification of it, (I. f. 534,) and had not yet seen him since his illness,

(I. f. 5.) As to the instructions and directions in relation to this codicil, he answers, "They were all communicated to me by Mr. Delafield prior to my drawing the codicil." (I. f. 63.) The codicil, as finally engrossed by Mr. Lord, under the instructions of one of the Messrs. Delafield, and after a conference with him and Mrs. Parish, at the house in Union Square, (I. f. 6,) assigns to Mrs. Parish the Union Square property and the property in Wall street, which have been already mentioned, valued, according to the estimate of Mr. Kernochan, the one at from $100,000 to $120,000, and the other at $90,000. (See the document in the case.) Mr. Lord's first interview with Mr. Parish, was after the preparation of this document for the signature of Mr. Parish, Aug. 29th, 1849. (I. f. 90, 91.) It was held in the presence of Mrs. Parish, and of two gentlemen who were invited to officiate as witnesses to the signature of Mr. Parish, viz., Mr. E. Holbrook and Mr. Daniel D. Lord, son of Mr. Daniel Lord. (See codicil in the minutes.) As to Mrs. Parish's mode of introducing them into Mr. Parish's chamber, "I think," says Mr. Lord, "she went up before us; she may have been up before us to prepare Mr. Parish for our coming, and then returned and led us up." (I. f. 94.) The physical condition of Mr. Parish at this period need not be again described. "On coming into the room," says Mr. Lord, "Mr. Parish was sitting in his chair; I think we spoke to him with the usual civilities, and he recognized us; he did not otherwise express himself, as I recollect." (I. f. 96, '7.) The subject of the visit having been introduced, and the codicil produced, "I read it," says Mr. Lord, "slowly and distinctly, and I think by sections, but I am not positive." (I. f. 102.) "Before he was asked if he would sign it, he was asked independently and separately if he wished to give that house and property to Mrs. Parish, and if he wished to give her the lot in

Wall street." (I. f. 103.) "He expressed his assent by a sound or gesture; I think by both. The sound was a single sound, an attempt to say yes, and the gesture was a nod or nodding." (I. f. 105.) "A cushion was brought and laid before him, and I think a table was placed before him to write on. Whether the table was there already and a cushion placed on it, did not impress me, and I can't say. Mrs. Parish said sometimes he uses this cushion. Mr. Parish expressed that he did not want it, made some movement that he did not want it, by shaking his head. When the preparations were ready for his signing, and he could not lift his arm, he made some expression as of sadness at his condition, as I understood it. It was a sound and a sort of expression in his face. I then assisted his arm to the spot where the signature was to be made, and assisted him to make his mark, and asked him if I should write his name. He expressed his assent to that in the manner in which he had done before. I asked him if he signed it as a codicil to his will, and he expressed he did." (I. f. 106, '7.) "I asked if I should write his name for him; I think this followed his making his mark, but it may have been before, as to which my recollection is indistinct." (I. f. 113.) The process of witnessing was after the same manner. "When we came in, he was sitting; he remained sitting while we were in the room, and we left him in the same place sitting when we came out." (I. f. 129.) The interview occupied "I should think about half an hour." (I. f. 126.) Mr. Parish it will be remembered had not as yet been able to walk about, beyond his bed-room. (I. f. 1798.) "He appeared by looking at him," to use the expressive words of the waiter, Quin, "to be very low, just like a man who would be between dead and alive, and to have no command of his mind, perhaps I might say, half dead and

alive." (I. f. 1804.) Mr. Lord himself, in view of Mr. Parish's condition at the time, deemed it proper to ask for a re-enactment of the same codicil. The exact circumstances leading him to ask for this are not specified, but from the fact that Mr. Lord found while guiding Mr. Parish's hand, that he could do no more than make his mark, and that the name was afterwards left to be subscribed by another hand, is presumptive evidence at least that up to this period Mr. Lord must have placed too high an estimate of Mr. Parish's ability to execute business understandingly.

25th.—*The re-execution of the First Codicil.*

As to the re-execution of this codicil, "The actual date of my suggesting it," says Mr. Lord, "I am unable to state, but from the peculiar circumstances under which the codicil was drawn, it had always been my intention, if possible, to have it again submitted to Mr. Parish; for although I was satisfied myself that it was all understood and well executed, yet it seemed to me proper and prudent that it might appear to others whether this was so or not, by a re-publication or re-execution under more auspicious circumstances." (I. f. 131.) "The suggestion had been made by me to one of the Messrs. Delafield to be communicated to Mr. Parish;" (I. f. 134;) and the time of meeting for the re-execution, December 17th, 1849, was fixed upon by "either Mrs. Parish, or one of the Messrs. Delafield." (I. f. 135.)

On this second occasion Mr. Lord found Mr. Parish "in his library, in the basement story fronting the south." (I. f. 141.) "He was dressed in his usual dress, as a gentleman, and appeared quite a different man from what he had when this codicil was first executed." (I. f. 142.) "He was sitting between the

window and the fire-place," "in a chair." "He was aided to move from where he sat to a place near the window, where he sat when he finally re-executed the codicil." (I. f. 143.) He was aided by, "I think Mr. Holbrook and Mrs. Parish, but I am not distinct in the recollection of that." (I. f. 143.) "They, or one of them, stood by his side, and took his arm, and assisting to bear the weight of his body, aided him to a seat near the window." (I. f. 144.) As to walking with aid, "I think he did, but imperfectly; I rather think shuffling his feet, progressing in that way; but this is a circumstance of which I speak, with others of that character, with no great certainty." (I. f. 144.) On entering the room and addressing Mr. Parish, "I recollect no sound nor gesture, but a cordial expression of countenance." (I. f. 146.) When asked, as before, to re-execute the codicil, "he uttered 'yes,' unmistakably, but not so distinctly but that his speech seemed to be obstructed." (I. f. 147, '8.) "I think he accompanied it with a gesture, by inclining his head." (I. f. 149.) "After the table was prepared and the pen and ink brought, Mr. Parish put his hand upon the table, and, with my assistance, made his mark as it is upon the codicil." "I think it was his *right* hand. I do not now recollect any thing to indicate that it was not his right hand." (I. f. 155.) "I think he took the pen." (I. f. 156.) "As to that matter I am not sure." (I. f. 156.) I assisted him, replied Mr. Lord, "by placing the pen, the point of the pen, where the mark was made, and assisting and directing his hand in making both the marks of the cross." (I. f. 157.) On asking to assist him to write, "I think he smiled upon that question." (I. f. 157.) "I asked Mr. Parish if he executed that as a codicil, and if he wished us to attest it as witnesses. He answered 'yes,' or nodded, and pointed to the subscription clause on the paper. I mean the

original subscription clause." (I. f. 160.) After the document had been witnessed, as before, by Mr. Holbrook and Mr. Lord, "Mr. Parish," says the latter, "then made that mode of expression, indicating that he wanted to communicate something. I can't well imitate or describe it. It was a continued repeating articulation of the same sound. Mrs. Parish suggested that he had a wish to vary the residuary clause making gifts to various persons, among others, the children of his brothers, (i. e. the 12th clause.) Mr. Parish, in the usual mode of expressing himself by a nodding, or saying 'yes,' assented to that." (I. f. 166, 7.) Mr. Lord, however, was not yet prepared to accede to the suggestion. "I was at that time," says he, "aware that some difficulty had come to pass between Mr. Daniel Parish, and, I think, a Mr. Sherman, and Mrs. Parish, and, I understood, Mr. Henry Parish. I was aware of it from the statements of Mrs. Parish or Mr. Delafield, and I think, of both. I expressed that I wished that it might not then be done; that it would fatigue and disturb Mr. Henry Parish; that it would require a good deal of deliberation, and that I could come and do it at some other time. In this he acquiesced, with an expression rather of pain or regret, not expressed by a sound, but by the expression of his countenance." (I. 167, '8.)

26th.—*Mr. Parish's Condition at the time of the Re-execution of the First Codicil.*

This transaction, it is proper to recollect, was on the 17th of December, 1849; and in relation to Mr. Parish's power of giving expression to any thought, by his countenance, at this period, we have the evidence from several witnesses that his eyes were both

affected, from cataract and other ailments, and that he wore glasses; we have, in reference to the movement of his features, also the evidence of the Rev. Dr. Taylor, who says that, "On the 3d of November, 1849, I was called to baptize Mr. Parish; I found him in his chamber, at his residence in Union Square, I think upon the third story. He appeared a very feeble man." "The general expression of his face would have indicated a lack of intelligence, the muscles were rigid, apparently, and failed to give expression to his countenance." (I. f. 3330, 3331.) So also Dr. Delafield, even after the period above indicated by Mr. Lord, "after the fall of 1849," admits at least some loss of power in the muscles giving expression to the countenance; for, says he, "at some period, I can't say when, there was occasionally a slight flow of saliva from one side of the mouth—very slight, not perceptible by common observers—which showed that the muscles of that side of the face, although not altered in appearance, were really not so strong as those on the other side." (I. f. 3043.) Again, Quin, who served in the family up to December, 1849, and who speaks of Mr. Parish, about the period of first executing this codicil, as "half dead and alive," afterwards adds that Mr. Parish was "pretty much the same—all through he was pretty much the same." (I. f. 1805.) But however much regret Mr. Parish may have evinced to Mr. Lord in not being allowed to alter the residuary clause of his will at this time, (i. e. the twelfth clause,) he does not appear to have been soon anxious for a renewal of the proposition. The second codicil was not executed until nearly two years from the time now spoken of by Mr. Lord; and the third codicil, in which the ultimate residuary clause of the will (i. e. the thirteenth clause) was really altered, and the general residue of the estate diverted from Mr. Parish's brothers

and their children, to Mrs. Henry Parish, was not effected until the 15th of June, 1854; and not even then was the disherison of his brothers' children effected as fully as had been proposed, owing, as in the present instance, to Mr. Lord's interposing an objection. Speaking of Mr. Parish's capacity for the execution of the first codicil, and its subsequent re-execution, Mr. Lord says, "On each occasion he perfectly understood what was proposed to be done, and what was done. On the first occasion I had little communication with him, further than to ascertain if it was his wish to give the property expressed in this codicil to Mrs. Parish; on the second occasion, I think my communication with him was somewhat more extensive; I had no doubt of his capacity, in regard to mind, memory, and understanding, to execute a testamentary paper." (I. f. 14, 15.) But the modification of the will, effected by this first codicil, appears to have made but little, if any, impression upon the mind of Mr. Parish. Indeed, the evidences are all in favor of his having entirely forgotten it. Mr. Folsom and Mr. Kernochan both state that, at the interview when the duplicate copy of the will was surrendered to him in January, 1850, when questioned as to whether he had ever altered his will—and where the question was fairly put by Mr. Folsom—Mr. Parish gave a negative answer. "I then put the same question to Mr. Parish, the same as I had before, asking him if he had made any alteration in his will; he made a very decided negative movement of the head, or shake, and, I think, made a sound with his voice, sounding much more like 'no' than 'yes,'" &c. (I. f. 1161, 1162.) "Mr. Folsom, on surrendering the will," says Mr. Kernochan, "asked Mr. Parish whether he had made any alterations in the will since he had made that will, to which Mr. Parish shook his head." (I. f. 865.) If capable of understanding so

simple a question, he not only appears to have forgotten the fact of altering the will, but he also appears to have forgotten that the duplicate of the document had been placed in his possession. For afterwards, in front of the office, says Mr. Folsom, "on one occasion, when Mr. Parish continued those gestures with his hand, I asked if he wanted his will; he made an affirmative nod of the head; I said in effect, you have it already; and Mrs. Parish said, as near as I can remember, 'Why, Henry, you know it is home.'" (I. f. 1265.) We need not again refer to a similar indication of want of memory in regard to the trunk in which the copy of the will had commonly been kept. (I. f. 1266.)

27th.—*Mr. Parish refuses to cancel the Original Will.*

But if Mr. Parish had forgotten the alterations effected in his will by the execution of the first codicil, Mr. Lord gives us to understand he had not forgotten that he had made a will. For in September, 1853, during the conferences preparatory to the execution of the second codicil, "I remarked," says Mr. Lord, "that the taking of the stocks in the name of Mrs. Parish was not, in my judgment, a valid disposal of them in her favor; I suggested whether, inasmuch as gifts to so large an extent were about being made to Mrs. Parish, and it was understood to be likely that they would be controverted, whether he would not prefer the *cancellation* of his will, and the leaving of his property to go by disposition of law, by which she would have a large provision. I was not then aware of the amount of Mr. Parish's property. Mr. Parish did not favor that suggestion of cancelling his will." (I. f. 207, 208.) "He said 'no;'" and as to accompanying gestures, says Mr. Lord, "I have no recollection at this

time, except that he gave me the answer so distinctly and clearly, that I saw that he understood it, and it did not suit him; but the tone of his voice, and the character of his gestures, I do not now recollect." (I. f. 210, 211.) As to the proposition of cancelling the will, Mr. Lord says, "It was entirely my own thought." (I. f. 492.) "I had never spoken of it to any of the Messrs. Delafield; I think I had not spoken of it to Mrs. Parish, but I am not sure that I did not before I mentioned it to Mr. Parish." (I. f. 493.) Again, Mr. Lord, when questioned whether he had not at all times, subsequently to the execution of the first codicil, a belief that the capacity of Mr. Parish to make that, or any other codicil, would be contested, and form a subject of litigation, replied, "I had a belief that it might be attempted to contest his capacity; I cannot say that I expected that it would be; but I always had a belief that it would be the subject of litigation; and when I consented to become a witness, I mentioned that it would preclude my acting as counsel upon the trial of the will, if such litigation should accrue." (I. f. 494, '5.) The alterations of the will, however, were repeated; and what Mr. Lord tells us Mr. Parish was unwilling to do by the single act of cancelling his will, was substantially effected in detail, by a series of transactions requiring a considerable amount of intellectual acumen to devise or to unravel.

28th.—*The Making of the Second Codicil.*

The subject of the second codicil, or that of September, 1853, occupied a series of conferences running on from one, two or three days before the sixth of September, 1853, up to the fifteenth of that same month. (I. f. 191, '2.) "Before my family had re-

turned to town," says Mr. Lord, "Mrs. Parish called at my house to learn if I had returned, and requested me to call and see Mr. Parish; she called personally, and I received her." (I. f. 194.) "She expressed to me that Mr. Parish wished to make a further disposition of property. She brought a paper containing a list of stocks and securities, some part of which stood in her name, others not. She expressed that Mr. Parish had put the stocks in her name, with a view of her having them; that he wished to give her the rest of the securities contained in the paper.

Mr. Lord informs Mrs. Parish of her defective claims upon certain alleged gifts, and Mrs. Parish's Investments in her own name.

"I expressed then that the securities being made in her name, was not, in my judgment, a secure or effectual gift. She expressed a wish that I should call and see Mr. Parish; that he was much better than he had been, and she wished me to see him and take directions from himself." (I. f. 195, '6.)

It is proper here to explain that at the time of his attack in 1849, much of Mr. Parish's property consisted in public stocks, bonds, notes, and other similar securities, falling due from time to time; and that in the re-investment of the funds as they were received on the maturity of such bonds or other business paper, it was customary for Mrs. Parish to make the new investments in her own name. Mr. Lord's remark, that securities being in her name was not a secure or effective gift, had reference to these new investments. Mr. Kernochan admits that Mrs. Parish very often consulted him about the investments she was making or holding in contemplation. But when asked "Did Mrs. Parish inform you that she was placing stocks or securities, or making investments in her own name?" he

replied, "I don't think she ever did; not to my recollection." (I. f. 872.) Nor had Mr. Lord been previously informed of it by Mrs. Parish. "Not by her. It is probable—and I think it was so, that some bonds and mortgages were taken in her name through the office of my partners as conveyancers, and I may have known it from them." (I. f. 199, 200.)

Numerous Conferences and Complicated Transactions

And now to return to the subject of the second codicil, Mr. Lord says, "I find, by referring to the diary, that I saw Mr. Parish on the 6th and 7th, 9th, 12th, and 13th of September. The codicil was executed on the 15th, as appears by its own date, and I have no entry on my diary of that date." (I. f. 192.) "The entry of the 12th designates Mr. Parish's house, meaning his house in Union Square; the entry of the 13th indicates at Mr. Parish's at Hell-Gate; none of the others indicate where they were, but my memory is perfectly distinct that they were at his house in Union Square, except the one near Hell Gate." (I. f. 192, '3.) After Mrs. Parish's call upon him, before seeing Mr. Parish, Mr. Lord prepared from the paper which had been submitted to him the draft of a codicil. "A very rough draft of a codicil," says he, "my recollection of which is, that with a formal commencement, it contained two sections, one embracing the stocks and securities which stood in her name; the second embracing the other securities." (I. f. 197, '8.) "As to the securities which stood in Mrs. Parish's name, I think those which stood in the first section of that draft were the same as those described in the second codicil as standing in her name. As to the stocks on the second section of my draft, whether they are all the same as those expressed in the second section of the second codicil, I cannot

say. My draft underwent a great many alterations and changes, and was finally superseded by a draft made at Hell Gate, and it was destroyed; but I do not recollect whether it was destroyed before the codicil was executed, or shortly afterwards; I think it was destroyed." (I. f. 198, '9.) The first interview with Mr. Parish on the subject of this codicil, on the 6th of September, lasted not over half an hour. (I. f. 204.) The draft of the codicil was now under consideration. The substance of the remarks previously made to Mrs. Parish respecting the ineffectiveness of placing the securities in her own name, and the proposition to cancel the original will formally made to Mr. Parish. Mr. Lord then informed Mr. and Mrs. Parish that the codicil was for their consideration, and left them, with the remark, that "we would meet again about it." (I. f. 207, '8.) The interview of the 7th of September was by appointment, but has left no clear impressions on Mr. Lord's memory, who says: "I do not think any thing was done on that day, but I know that he had the draft codicil which I had left; and he was not ready, or they were not ready to proceed to conclude it; I am unable to state the hour I was in the house, nor the length of the interview, except that it was not long." (I. f. 216.) Mr. Lord is not even certain at this call he saw Mr. Parish at all. (I. f. 220.) "In the call on the 9th of September," says he, "I came by prior appointment; whether the time was fixed at the meeting before, or whether Mr. and Mrs. Parish stopped at my house and gave me an appointment, I am unable to say." (I. f. 224.) The meeting was in the library, in the presence of Mr. and Mrs. Parish, and Mr. Wm. Delafield. As to Mr. Parish, "his articulation was much better than when I had seen him in 1849, and his condition—his general condition was much improved; my general re-

collection of the articulation of Mr. Parish, when he expressed assent by the word 'yes,' or dissent by the word 'no,' is, that it was accompanied with a movement of the head or gesture; I would also add, that he had a very intelligible mode of expressing by an inarticulate sound, inquiry, or a wanting communication, and his assent or dissent by 'yes' or 'no,' was made with a variation indicating more or less firmness in his determination." (I. f. 228, '9.) At this interview: "The items of the property to be disposed of by the codicil, as expressed in the draft, were taken up, and he was asked if they should be included. The draft of the codicil had pencil marks drawn over several of the items originally written down. The course of the interview was to ask concerning the items, or other items of property, to take the place of those which had pencil marks through them. The business was proceeded in, until the items were gone through with, and adopted as gifts intended to be made by him." (I. f. 231, '2.) As to taking up the items that had been erased with pencil marks, and those that were not: "I have no recollection of any difference, but I confess that I have no recollection distinctly on that subject: I acted under the conviction that the draft had been read to him." (I. f. 234.) When asked as to whether any of the items in the first section had been erased by pencil marks, Mr. Lord answered, "They had not." (I. f. 236.) And when asked, if before reading off the items in the second section, he there, in the presence of Mr. Parish, made any inquiry about the pencil erasures, he replies, "Not to my recollection." (I. f. 243.) And again he says: "I cannot say that I was told so, and yet I have an impression I understood them to be items he had not determined upon. That was the understanding upon which I acted." (I. f. 244.) Again, Mr. Lord being asked whether, in reading off the items

to Mr. Parish, he had read the pencil-erased items in like manner as the others, following each with an inquiry whether that should go in, he answered: "My impression is there was a difference, but I cannot now state what it was." (I. f. 244.) "I cannot recollect any of the items erased, nor any of the items which, according to my impression, were substituted, but I recollect there were only two or three items in the second section which had not a pencil line drawn through them. My recollection is distinct that the number of unpencilled items was very small. It struck me." (I. f. 245, '6.) In regard to the adoption of the whole of the items of the first section, Mr. Lord says: "From the fact that he could express his assent or dissent intelligently, and the fact that the items were left to stand, I have no doubt in my memory that he expressed assent by saying yes; he was equally able to express dissent, and I am very positive he expressed no dissent." (I. f. 237.) Like those in the first: "The items in the second section, consisting of securities in Mr. Parish's name, were taken up separately, one by one." (I. f. 240.) "The item would be named, and he would be asked if that should be included or put down." (I. f. 240.) As to interpellations by Mrs. Parish and Mr. Delafield in reference to the items of this section: "It is my best recollection that they addressed questions, both of them, in relation to some of the items that were included in that second section, as it was eventually settled." (I. f. 241.) "No item was put in without a distinct assent by word from Mr. Parish, given after different spaces of time—sometimes more promptly—sometimes after some delay. He did in every instance give me an unmistakable answer of yes or no, as the case required." (I. f. 242.) "Some items, according to my best recollection—and I feel positive as to the result—were left out, and I think

some substitutions were made." (I. f. 242.) The idea of these substitutions was not from Mr. Lord? "No—but by Mrs. Parish," (I. f. 249;) "and my best recollection is that, in substance, it was a naming of some other piece of property, and an inquiry if that should be put in; but as to this answer I will not be positive or certain." (I. f. 249.) "By substitution I do not mean a simple putting of one thing in the place of another, but an adding of items to make up some supposed or expected amount, that was my idea in the use of the term." (I. f. 251.) When Mr. Parish appeared to hesitate about the disposal of any item, "It was left out of consideration." (I. f. 254.) But as to resorting to the same item more than once: "I am unable to say; my impression is not, but I confess my inability to say; an item may have been dropped and resumed again, but I am not positive it was ever done." After the items had been all arranged: "I think the clause as to the stocks being replaced if sold, was read to him, but I am not sure, for I supposed that it had been read to him, and I acted under that impression; still, I think I read that clause to him." (I. f. 259, '60.)

"The amount of property [see the second codicil] having been so far arranged, which the codicil was to embrace, I opened the subject to Mr. Henry Parish of revoking the appointment of Mr. Daniel Parish as executor; I had previously mentioned that subject to Mrs. Parish, either when she first called upon me in September [1853] or in some intervening meeting with her, and told her the ground of my suggestion; she expressed a wish that I would speak of it to her husband." On this occasion of the 9th of September, [1853,] I did speak to Mr. Henry Parish on the subject, and asked him to consider it, and it was left for his consideration; I think no answer either way was then given upon the subject; the afternoon had got quite

advanced, and we separated." (I. f. 262, '3.) Alluding to Daniel Parish, and the misunderstanding between the two, Mr. Lord goes on to say, "she expected that the codicil would be disputed by him, if it could be; when I saw the large amount of property to be given to her, I thought it right to suggest the difficulty or incongruousness of having an executor act, who would probably act in opposition to the codicil." (I. f. 264, '5.) As to the exact mode of introducing the subject of the revocation, "I cannot give the words, but in substance I wished him to consider the subject of this revocation, giving the reason, that if these large amounts were given to Mrs. Parish, and alluding to the variance between them, it seemed to me to be a false position for Mr. Daniel Parish to stand in in reference to the gifts to Mrs. Parish; these ideas were given in substance." (I. f. 274.) As to the expected opposition from Mr. Daniel Parish, "I never spoke of it previously; on this occasion I did allude to the supposition that he might probably dispute the codicil." (I. f. 276.) "I recollect no reply by sign or sound; no reply was expected; the object was to communicate to him, that he might consider it." (I. f. 276.)

Mr. Lord was at this time still uninformed as to the exact amount of Mr. Parish's personal property; and as to those gifts to Mrs. Parish, he says, "I did not understand these gifts to trench upon the gifts of particular legacies in the will; I had not any estimate of the supposed aggregate of Mr. Parish's personal estate." (I. f. 284, '5.) But as to the residuary bequest to his brothers, "I do not think that was distinctly adverted to; but it was my understanding that the gifts contemplated would nearly absorb, if not quite, the residue of the estate over the gifts in his will and the previous codicil." (I. f. 285.) This interview began

between four and five o'clock in the afternoon until somewhat before dark. (I. f. 286.)

The next conference was on Monday, September 12, 1853, in the afternoon, place and persons as before; "But what particularly was done, I cannot say," observes Mr. Lord, "until Mr. Parish made the sign used by him for an inquiry for something; it was asked if he wanted those papers, which he expressed to be his wish; there were then produced two papers, one in the handwriting, I think, of Mrs. Parish, the other in the handwriting of Mr. Delafield; the first was a statement of all the property of Mr. Parish; the second, in the handwriting of Mr. Delafield, was a statement of all the gifts, real and personal, in his will and in the first codicil, with valuations assigned to it. There was in that paper also a statement, apparently the amount of the gifts in the draft codicil." (I. f. 287, '8.) [For these lists, see Exhibit, in Vol. I., at page 100 *et seq.* the first, marked No. 1.; the second, marked No. 2.] Mrs. Parish's mode of eliciting his wishes on this occasion was after the usual manner; "His wife would say, 'Mr. Parish, do you want this, or do you mean that,' naming what she suggested, and continued so to do, until she had hit his meaning or intention." (I. f. 297.)

Detection (not by Mr. Parish) of the $95,510 *Discrepancy.*—Mr. Lord proceeds to say, "Whether the codicil had been entirely read through or not, I am not positive; when these two papers were produced, it was observed by some one that the gifts on the will and the first codicil and this codicil, would exceed the amount of property; whether that was Mr. Delafield or myself who observed it, I am unable now to say; it was one of us two." (I. f. 300.) The estimate of gifts, as per statement marked No. 2, pages 102 and 103, being $1,186,960, and the valuation of the whole estate

$1,091,450, shows that this excess of the gifts over the property was no less than $95,510. (I. f. 302.) "The discrepancy between his gifts and the amount of his property, was then stated to Mr. Parish, and I asked him," says Mr. Lord, "whether that should stand, that the gifts should exceed the property; he expressed unwillingness at that; he disapproved of it." (I. f. 301.) The matter of the amounts and of the codicils was passed over for future corrections, "and Mr. Parish then fixed his finger upon the $52,000 Alabama stock, and I think the $60,000 stock close by it in Exhibit No. 1. (I. f. 364.) I noticed that from his seeing it, laying his hand on it, and pointing to the item." (I. f. 304, '5.) "He placed his fingers on the item." (I. f. 305.) "The thumb and two fingers of his hand were bent together, and he put the ends of them upon it." (I. f. 306.) "If it had not been for what took place the next day, I should be unwilling to say upon which of these items he fixed his attention; it was to one, and I am not sure but it was to both; but the Alabama stock of $52,000 was the subject of so much consideration the day after, that I will not be positive that he noticed the other sum; my impression at the time was that he noticed both, and I still think so from the addition by me of the $112,000." (I. 307, '8.) After this indication of the fingers, "I think some inquiry was made as to the meaning, but I am not sure that it was pursued." (I. f. 309.) Among the suggestions elicited by this indication of the fingers, the one which was eventually adopted was that the amount pointed at should be appropriated to charities. "I am not very positive whether it was expressed, that that was his wish, on that afternoon or not; my impression is that it was." (I. f. 313.) "In connection with this act of placing the fingers on an item or items in Exhibit No. 1, and his pointing at another time to a subscrip-

tion clause, Mr. Lord at another place says, "I don't recollect intending to convey the particular idea of his reading; the subject was his discriminating the particular place and the particular article." (I. f. 506.) And again, "I did mean to convey the idea that he could distinguish those parts of the papers by his sight of the figures in one case, and the place in the other." (I. f. 505.) Next as to the revocation of Mr. Daniel Parish's executorship: "I asked him if he had determined about it, in substance, not giving words; and whether that appointment should be revoked." (I. f. 309,' 10.) He replied, by "the word 'yes.'" (I. f. 310.) "I drew up the form of revocation to be added to the codicil, excepting that which relates to the legacy of $10,000 to the executor, and read it to Mr. Parish, and asked him if he approved of it; he answered, 'yes.' I wish to state here that the will was not then present." (I. f. 310.) The time and place of the next meeting were now fixed upon by Mrs. Parish or Mr. Delafield, namely next morning at Hell Gate.

At the Hell Gate meeting the persons engaged were the same as at the previous conferences (I. f. 320), and the business of the codicil was continued. (I. f. 324.) "The papers," says Mr. Lord, "which had been before us the day before, were produced. One of the duplicates of the will was there. The first thing done was the production of this paper I now have in my hand, by Mr. Wm. Delafield. It is marked No. 3. [See I. p. 104, f. 401.] That was read or stated aloud, I am not certain which. Some items of property Mr. Delafield stated in the hearing and presence of Mr. Parish, were included in this Exhibit No. 3, which had not been in the former list. By this paper it appeared that the difficulty about the property answering to the gifts disappeared. And this removed the obstacle of proceeding with the codicil as it stood." (I. f. 326–'8.)

Revocation of Executorship of Danl. Parish, by Mr. Lord.—But in commenting on this remark at another place, Mr. Lord stated, that the additional items did not equal the difference of $95,510. "The papers show that they do not; the paper No. 3, took up the estimated value of the property, and added the new items; it took up the gifts by the will, and the footing was carried out, which left a surplus of $382,450; the gifts by the intended codicil were found not to equal that amount. In looking for the discrepancy, there appears an error in the addition upon Exhibit No. 2 of the amount of gifts, which error is in the figure *one*, being *one hundred thousand dollars;* it should have been $1,086,960, instead of $1,186,980." (I. f. 543, '4.) Then again in regard to the value of property at 162 Pearl street, as stated in Exhibit No. 2. "From the inspection of the paper," says Mr. Lord, "the sum originally written appears to have been $12,250; the alteration confuses it so that it may be read $12,500 or $16,500, but the addition shows that it should be read $12,500." (I. f. 544.) Mr. Lord proceeds: "I have the impression that the draft codicil was then read to Mr. Parish. At the same time another statement, which is now in my hand, ending with a balance of $33.50, was produced by Mr. Delafield, showing the disposition of property by the intended codicil, (this is marked No. 4),* and I think that paper was also read aloud in the presence of Mr. Parish." (I. f. 328.) As to the reading of Exhibit No. 3, "I think it was addressed to me, but in the hearing of Mr. Parish, who sat close to me." (I. f. 332.) And as to the reading of No. 4, "It was immediately after, and as a part of the same communication, but without being, so to say, a part of the same sentence, or sequence of speech. There was some conver-

* The Exhibit No. 4, (I. pp. 104, 105, f. 402, '3,) has no such ending as is spoken of by Mr. Lord. There are also misprints or errors in the footing up of the figures.

sation or explanation along with it, and I am not able to say what it was." (I. f. 333.)

Revocation of the Legacy of $10,000 *to Danl. Parish at the suggestion of Mr. Lord.*—Mr. Lord now infers from certain marks on Exhibit No. 4, "that the next thing said or done was in reference to the revocation of Mr. Danl. Parish's appointment as executor." (I. f. 334, '5.)

"The will was present; the clause appointing the executors was read by me; I stated that it would not be clear from the mode in which the legacies to the executors were given, whether the revocation of the appointment would revoke the legacy to Daniel Parish or not, and I asked Mr. Parish whether he meant to revoke that legacy—that that ought not to be left uncertain." (I. f. 335.) "He made reply by saying 'Yes;' I then added to the clause a revocation in the draft codicil; that which speaks of revoking the legacy." (I. f. 336.) "I next read the clause as complete to Mr. Henry Parish, I think, as it now stands in the codicil." (I. f. 337.) "Having read it for his information and approval, and having acted upon it as approved by him at the time, I infer and have no doubt he answered 'Yes.' But my recollection is founded upon these facts that I state. I ought to add also that Mr. Parish, in this interview, was very able to express by sounds his assent or dissent." (I. f. 337, '8.) "I have a recollection of asking whether he approved of it, and of his saying 'Yes;' but it is less positive than if it were not corroborated by the circumstances I have stated."* (I. f. 339.) Mr. Lord, when here asked, "Was not the revocation of the appointment of his brother Daniel as executor, with the revocation of the

* Mr. Lord here expresses himself evidently wrong, and in a way not to convey his meaning.

legacy to him, the act of all others to which you supposed Mr. Parish assented, that which seemed to you, during the transaction, as the most impressive?" says, "It was not. It did not strike me in the sense supposed in the question. If these legacies were given to Mrs. Parish, I did not suppose Mr. Daniel Parish would have cared to be continued executor. It did not impress me as being any thing very remarkable." (I. f. 340.)

The Alabama stocks devoted to charities, and not all thus used.—After the revocation was disposed of, "Mr. Henry Parish then made the expression that he wanted to communicate with us, either by again touching the paper Ex. No. 1, or by answering to the suggestion whether he wanted to take up the Alabama stock, he indicated his wish to take up that subject. I have the impression that it was by touching the paper, but I am not positive in which of the two modes this matter was expressed." (I. f. 341.) "During the interview before this time," "Mr. Parish, in the course of our interview, made several times the expression of wanting to communicate, but I am unable to say upon what subjects that was done; the general fact I recollect." (I. f. 343, '4.) At this point, when asked, "who first spoke about the charities or gifts to institutions on that occasion?" Mr. Lord replies, "His wife, Mrs. Parish," (I. f. 344), and says further on, "I made no suggestion at all of any charity; I have an impression, but faint, that Mr. Delafield did make some suggestion of a charitable object or association; Mrs. Parish made all the other suggestions; I have forgotten every one suggested that was not adopted; the order of suggestion I am unable to state, other than in this manner—I have an impression that she first suggested the making of a very large donation to the Eye and Ear Infirmary, or the charity

of that kind mentioned; and I think she mentioned that he had given Dr. Delafield, who had charge of it, reason to expect something very handsome. My impression is, that the sum she named would have absorbed nearly the whole amount; he expressed the sound 'No.' Then various suggestions of names of charitable institutions were named, but in what order I cannot state, except that the Bible Society was the one which he first adopted. The Orphan Asylum Society was the one which he next adopted; St. Luke's Hospital was the next, and a receipt for some contribution to that object was produced to me by Mrs. Parish during the interview. He next adopted the suggestion of the Eye and Ear Infirmary. When these were adopted, sums were suggested. He first adopted the suggestion of $5,000 for the Bible Society. [From the memorandum Ex. 4, I am mistaken as to the order. I think the Eye Infirmary was the second, and the Orphan Asylum and St. Luke's Hospital next after.] The sum adopted for the Orphan Asylum, I think, was also $5,000 in the first instance. My recollection is then imperfect as to the suggestions for the others; but the amount to be disposed of left larger sums to the other societies than he inclined to give, expressing, when the suggestion was made of the sums, 'Yes,' or 'No,' according to his purpose. The sums were then again suggested to him, in consequence of his intimating an inquiry, by the sound and gesture he used for that purpose. Upon these second suggestions, he adopted the sum of $10,000 for the Bible Society, $10,000 for the Orphan Asylum Society, $10,000 for St. Luke's Hospital, and $20,000 for the Eye Infirmary. The suggestions as to sums were made to him by Mrs. Parish, and his answers were by the sound 'Yes,' when he adopted the sums." (I. f. 346, '50.) "The institutions were settled upon before the amounts of the legacies to them were taken up." (I. f. 352.)

As to the other institutions suggested, there were, "Yes, several others, quite a number." (I. f. 353.) "I should not hesitate to say more than five others, according to my best recollection." (I. f. 353.) "On reflection, I think some of the dispensaries were named, and I do not recollect whether that was not by Mr. Delafield." (I. f. 354.) The Eye and Ear Infirmary being Mrs. Parish's first suggestion, "I think she suggested to him to give the whole to that, at the time she suggested it as an object." (I. f. 354.) "Various institutions were suggested before all the four were adopted. I am unable to say whether any institutions or charities were suggested after the four were adopted or not." (I. f. 355.) But the whole amount of the Alabama stock, *i. e.* of $52,000, which had been appropriated to charities, had not yet been exhausted; and as to the mode of disposing of the balance of this fund, says Mr. Lord, "I recollect nothing, except that his attention was drawn to it, and of that I am not positive." (I. f. 361.) As to the $60,000 item, which Mr. Lord had supposed was also to be appropriated to charities, "nothing was said about it; no inquiry was made about it" at the meeting of September 13th. (I. f. 381.) Mr. Lord goes on to speak of Mr. Parish: "He next either took up the will which was on the table, or made a sound of inquiry, which led to its being brought to him, and also made a sound of inquiry for another paper. That suggestion proved to be an inquiry for the first codicil, the original of which was not there, but a copy was, and at his instance it was read to him. He then drew attention to the blank leaves or sheets attached to the will, and it was suggested whether he wanted to have the codicil and the new codicil copied there. Upon that I made the suggestion that I would embody them in one, and send a new draft for them to read." (I. f. 366, '7.) Mr. Lord, when his recollection was refreshed, says, "It is that he called

for a suggestion for something, which turned out to be wanting the will." (I. f. 372.) And the object of the next sign of inquiry Mr. Lord infers, "from the fact that when the codicil was produced, and he was asked if it should be read to him, he said 'Yes.'" (I. f. 376.) The next subject introduced had relation to witnesses for attesting the execution of the new document, (I. f. 377); and the names of Messrs. Fearing and Ward were suggested by "either Mr. Delafield or Mrs. Parish, and I can't recollect which." (I. f. 379.) Here the interview closed. "I should think we were together from about half-past nine till twelve o'clock." (I. f. 380.) In connection with these transactions, Mr. Lord was asked, "Was the fact present to your mind on the 12th and 13th, when the subject of charities was up before you, that Mr. Parish, in his will, had given nothing in that way?" and he replied, "It was not; neither had I any idea or thought at all on the subject of a gift to charities, until he himself opened the matter, as I have stated." (I. f. 388.) The mode of opening it has already been related. Mr. Lord further states: "On the same day that I returned from Hell Gate, I drafted the codicil anew, embodying the codicil which had been executed in 1849, with the dispositions contained in the draft, which had been before the parties at Hell Gate. I enclosed it in an envelope on the same afternoon, and left it at Mr. Parish's house, Union Square. I received that draft back the next morning, by Mr. Delafield, with a single alteration in the draft, which was to make the charitable legacies payable in two years, instead of one. It was interlined over an obliteration, and I think in the handwriting of Mr. Delafield. Mr. Wm. Delafield was to get me the other duplicate of the will from the bank. We then arranged for the execution. I was mistaken in saying that the witnesses were selected at Hell Gate. Those witnesses were arranged between Mr.

Delafield and myself, on the 14th, at an interview, which was, I think, at my office. The codicil was then engrossed on the blank sheets of each of the duplicate wills. The time for execution had been appointed to be on the 15th, in the afternoon. I think that was done between me and Mr. Delafield, on the 14th." (I. f. 408, '10.)

On the 15th, "It was between four and five P. M., in the library of the house in Union square; Mr. Henry Parish and Mrs. Parish were there when I went in; whether Mr. Davis was there at the time, or came in shortly afterwards, I don't recollect, but he was there before any thing was done; I have no recollection whether Mr. Delafield was there or not." (I. f. 411, '12.) "I gave one of the codicils to Mr. Davis to compare." "I then proceeded to read the duplicate in my hands slowly, and stopping at every clause;" (I. f. 413;) "not meaning that I stopped at every item of stocks in the second section, but stopping at the end of the stocks in Mrs. Parish's name, and then again at the end of the stocks which afterwards followed in the second section." (I. f. 413, '14.) "Whether he made any sound or gesture at each or any stop, I confess I do not now recollect; he made no expression of dissent; of that I am positive." (I. f. 414.) "I asked him who should write his name, Mr. Davis or myself, to which he made a sign by bowing or nodding to me, indicating I should do it." (I. f. 416.) "I wrote his name as it appears upon the paper which I held in my hand, and laid it before him to make his mark, which he did." (I. f. 416.) "I steadied his hand, but I happen to recollect a little incident, that one of the strokes of the cross had been made somewhat imperfectly, and he with the pen pressed it, as appears upon the mark itself." (I. f. 416, '17.) "I had indicated the precise spot by writing his name there; whether I put my

finger to the spot I cannot be positive, but I think that I did." (I. f. 419.) "He pointed or repeated the stroke; it struck my attention; whether he had lifted his pen from the paper before he did it I cannot say." (I. f. 420.) As to the length of this interview, "I came not far from half-past four, and I think I left at my dinner hour, which was half-past five, my house being near." (I. f. 426.)

29th.—*A Comment upon these Transactions, and Mr. Parish's Condition at the Making of the Second Codicil.*

Thus closes the execution of the second codicil; a protracted and somewhat complicated procedure, for the analysis of which no small amount of discernment and grasp of thought would seem to be requisite. "I had no doubt," says Mr. Lord, "and I have not any, of his entire capacity to understand what he was doing, and the effect of it. I will add, I was quite gratified at the better condition of his bodily health, and the intelligence with which he acted." (I. f. 34.) But to judge correctly how far Mr. Parish, under the circumstances in which he was then placed, was competent to see through the whole business brought before him, or judge of its bearings upon the absent as well as present individuals, who were likely to be affected by it, would require us carefully to collate the narrative of the whole proceeding, with the statements furnished by other witnesses in reference to Mr. Parish's general conduct, and to the consideration paid to his judgment by those who were usually surrounding him, both before and afterwards. It must not be overlooked, however, that in the conference connected with the making of this codicil, Mr. Parish, though possibly possessing some no-

tion of their object, was incapable of spontaneous action. We are sure that we see him during the whole affair devising nothing, originating nothing, modifying nothing unequivocally by himself; and acting (if he can be said to have acted at all) only as he was acted upon by those who were about him. And if at the incipient stages of the proceeding he did understandingly refuse to cancel his will, yet he allowed some of its most essential features afterwards to be obliterated in detail. Mistakes to the extent of over $90,000 could be made in the estimation of his property, and bequests to that amount over its apparent value could be made in his presence, and ostensibly under his authority, and other errors introduced among the estimates and calculations without his discovering error or discrepancy; funds which he is supposed to have assigned to charities, could be rendered more or less, or partially set aside, at the suggestion or disposition of other persons; the name of his brother Daniel, even without a substitution, could be stricken from the list of executors, and a legacy of $10,000 assigned to that brother in the will, could be erased from the list of legacies, simply at the suggestion of a lawyer whom Mr. Parish while in health had never employed; and that brother, be it remembered, the one with whom Mr. Henry Parish, while he had yet the power, had ever been on terms of the closest intimacy; and of whom, in the making of the original will, and while yet in the full possession of his faculties, he said, "had been his partner a long time, that they had made his money together." (I. f. 768, '9.) Mr. Parish's bodily health, as shown by the evidence of Dr. Delafield and others, may have at this time been as good as at any period subsequent to the paralytic seizure, but he was still under the constant charge of a sick nurse. The marketing scenes described by Case and others, were going on apparently up to July, 1855,

(I. f. 1889,) and the bedroom exposures on the ground-floor, described by James Clarke, not to speak of the repeated efforts to ignore the name of Daniel Parish in front of his office-door, and the efforts to exclude friends and visitors from the presence of Mr. Henry Parish, except under the supervision of Mrs. Parish or those immediately connected with her, or serving under her directions; all transpired not merely after the making of the codicil in question, but even after the making of the third and last codicil, that of June 15th, 1854. To the documents of this latter date we must next direct our attention.

30th.—*The Making of the Third Codicil.*

"Prior to this, Mr. Henry Delafield had called on me to inquire what should be done with some acceptances of the Buffalo and New York City Railroad Company belonging to Mr. Parish, which had been dishonored. That led to a call of Mr. and Mrs. Parish, in their carriage, at my office. I saw them in their carriage at the door, in the street; this led to my calling upon Mr. Parish, at his house in Union Square, on the morning of the 13th of June." (I. f. 428, '9.) "Mrs. Parish spoke to me something about the acceptances, and some very short conversation on the subject took place; she then mentioned that Mr. Parish wished to make an alteration in his will, in relation to the last residuary clause, (*i. e.*, the 13th clause;) I was engaged that day in a trial, and left without going into the subject further than making an appointment to call again that afternoon." (I. f. 429, '30.) "I met him in the afternoon of that day, after 4 P. M., at the library of the house in Union Square; Mr. and Mrs. Parish and myself were the only persons present, so far as my memory serves; as to the order of things, upon his attempting to communicate, it was suggested that

he wanted to change the residuary gift, and also wished to make an alteration in the gifts to the children of his brothers, in the other (*i. e.* the 13th) residuary clause." (I. f. 434.) "I asked him if I should read the residuary clause, to which he answered 'yes;' I read it and explained it, in relation to the effect of that clause upon lapsed legacies; my impression is that Mrs. Parish then suggested to him, or to me, I don't recollect which, that he wished to make her the residuary legatee, and he was asked if it was so, and he answered 'yes.' Then he expressed the wish to communicate by sound of inquiry, and it was through that the suggestions came from Mrs. Parish of his disposition to disturb these gifts to his brother's children, (*i. e.* the 12th clause;) whether it was the first suggestion or not, I cannot say, but it was acquiesced in by him when it was made, by expressing 'yes.'" (I. f. 438, '9.) "The particular alteration, if any was specified in language, I only remember inferentially, from my remarks which followed it. I remember that I dissuaded from it, and am therefore confident that it was expressed to be an alteration unfavorable to those children's gifts." (I. f. 442.) In regard to cutting off the children's gifts, "My advice, I think, was acquiesced in, and the matter did not proceed to particulars." (I. f. 443.) "I said to him that that would be harsh, and making the difference between them to bear upon the children." (I. f. 444.) "I do not remember the precise occurrence on his part in reply to me; he forbore to make the sign of inquiry, and indicated a hesitating acquiescence by some sign or sound which I cannot now remember." (I. f. 445.) In the next place, "I said I would draw up the form of a codicil and submit it, and I think I promised to do so the next day." (I. f. 456.) "I drafted the codicil which was executed on the 15th of June, and enclosed it in an envelope, and left it at Mr.

Parish's house, in Union Square, or gave it to Mr. Delafield, I don't recollect which, and I proposed to meet them the next morning. I proposed it on the 14th." (I. f. 457.)

"I met him on the morning of the 15th at his house in Union Square, in the library-room, with his wife. I do not recollect the presence of any other person." (I. f. 457, '8.) "Upon the first opening of the matter of business, I asked, I think, if I should read the draft codicil, to which he answered 'yes.' I read it. I perceived it was an absolute revocation, by virtue of a direct gift to Mrs. Parish. The deaths of two of her brothers, before Mr. Parish, whose life had been considered more precarious than that of either, had caused me to reflect upon the possibility of Mrs. Parish's death before her husband. I then suggested the introduction of this clause, 'in case she shall survive me, I revoke the thirteenth article of my above-written will,' which I then wrote in the draft and read to him. I have the impression, also, that I explained to him the purpose of it. Having then completed the reading of the draft to him, I asked if he approved of it. He answered, 'yes.' Then the subject of attesting it was taken up, and a time appointed to execute it in the afternoon. This was in the presence and hearing of Mr. Parish, but whether he made any sound or sign about it I do not remember. Something was said about the witnesses, and Mr. John Ward was the person whom we agreed to invite. I was to have the codicil engrossed in duplicate upon the blank sheets of the will, and then I came away." (I. f. 457, '61.) As to the length of this interview, "it could not have been an hour." (I. f. 461.) As to the next interview, "it was about six o'clock in the afternoon." (I. f. 463.) "On that occasion I met Mr. Ward and Mr. Henry Parish at his house in Union Square. Mrs. Parish was pres-

ent; this was in the library; nobody else was present that I recollect." (I. f. 465.) "The opening of the matter of business was that I said, I have got the two codicils, and I asked Mr. Parish if I should read them to him and proceed to have the same executed, to which he answered 'yes.' I then gave one to Mr. Ward for him to examine, as I read the other aloud to Mr. Parish. I did read it aloud and slowly for the purpose of his understanding it, and asked him if he approved it, or whether that was his mind or wish in some form of expression; he answered 'yes.' I then asked him if I should sign it for him, to which he answered 'yes.' I then wrote his name where it appears upon the codicil, and asked him if he would sign it, which he proceeded to do; I have no recollection at this time whether I assisted him in making his mark or not; he then did sign his mark to the name I had written." (I. f. 463–'6.) The process of witnessing was next accomplished, the interview lasting "probably not over half an hour." (I. f. 468.)

30th.—*Mr. Parish's Condition at the Making of the third Codicil.*

Before closing this subject of the codicils, it is proper to remark that Mr. Lord, from first to last, resorted to no criterion to test Mr. Parish's competency to think for himself, independently of the prompting and suggestions of other persons. And when asked, "Did you ever, at any time during the life of Mr. Parish, advise any step or measure to get from him by any means or device, any writing of his own to indicate his assent to any thing, or his knowledge in relation to any subject?" Mr. Lord replies, "I never did." (I. f. 510.)

As to the bodily health of Mr. Parish, at the period of executing the third codicil, we have Dr. Delafield's opinion that Mr. Parish's health continued to improve up to the close of the year 1854, if not later, (I. f. 2072,) and that after this period he became more heavy, less inclined to move, more inclined to sleep, but still in fair, good general health." (I. f. 2073.) The Rev. Dr. Taylor speaks of his growing heavy and weaker than he had been; of his no longer looking at his Prayer Book, and of his finding it inconvenient to stand during the communion service, at an earlier period than this; "I should say it was eighteen months or two years before his death." (I. f. 3406.) And Mr. Kernochan, "thought he had been failing for at least the last year of his life." But as early as December, 1854, according to the testimony of Clarke, then the nurse of Mr. Parish, he had already ceased to walk out of doors at all, even by the support of his attendant, except on stepping to and from his carriage." (I. f. 738, '9.) And according to the evidence of Sammis, Mr. Parish's feet and ankles began to swell, showing a dropsical tendency and a failing of bodily health about a year before taking his measure for the first pair of shoes, (III. f. 1628;) and this pair of shoes was made about a year before Mr. Parish's death, (III. f. 1623,) showing that the tendency to dropsical effusions had existed for about two years. Dr. Markoe also alludes to the disease of the lower extremities, but without fixing any exact period. The last codicil, as already shown, was executed June 15th, 1854, and Mr. Parish survived the transaction somewhat over a year and eight months, dying on the 2d of March, 1856.

PART III.

31st.—*The Question as to Mr. Parish's Competency for Executing the Codicils.*

After the general review of the evidence which we have now taken, and which would seem to be essential to a just appreciation of Mrs. Parish's mental as well as physical condition; and after having in the progress of this review noticed as carefully and as impartially as possible the circumstances under which he was placed, and the influences surrounding him, from the commencement of his attack to the close of his life, and having also stated every fact of importance brought to light in connection with the making of the three codicils to his will; the question presents itself to us; *Was Mr. Parish at any time subsequent to July*, 1849, *competent to devise and execute a will or a codicil to his will?* This question we must now proceed to consider.

32d.—*The Question of Competency Propounded.*

Let us observe, then, in the first place, that the complications of disease with which Mr. Parish was overpowered from the moment of the attack in July, 1849, had their origin in the brain. The primary disease of this organ must have been long in progress, probably for years, before the open manifestation of its existence as an organic affection. It may not have

reached its utmost development even at the time of the paralytic seizure; but, as afterwards evinced by the persistent recurrences of convulsions, it probably continued its ravages within the brain, not always, however, with equal or uniform progress, up to the period of approaching dissolution.

a. *Authoritiesin Support of this.*—The intimate relation and common dependence of vertigo, apoplexy, hemiplegia, and convulsions, as they existed in Mr. Parish's case, is a fact in pathology not now to be pointed out for the first time. It has always been understood, as may be shown from the records of the medical profession in ancient as well as in modern times. "Vertigoes," says Galen, "approach very near in their nature to the falling sickness, and that which we call apoplexy, so as to precede both the one and the other."* The connection is ably traced in the writings of Bonetus† and Morgagni ‡, and is too well understood at the present day to require any formal comment for its support.§

b. *Anatomical Features of the Case deducible from the Symptoms.*—That changes in the organic structure of the brain lay at the foundation of all Mr. Parish's ailments and disabilities, might have been anticipated

* *Opera Galeni*, (Kuhn's edition,) vol. xvii. part II. p. 611. Where, in Aphorism, Comment. 3–17, we read as follows:

"Quid autem de vertiginibus quoque dicendum? Hæc namque tum epilepsiæ tum apoplexiæ proximæ sunt. Ilingus enim est tenebricosa vertigo quæ fit quum humor in capite movetur, ideoque epilepsiam et apoplexiam precedit."

† *Sepulchretum*, lib. 1., *passim.*

‡ *De Sedibus et Causis Morborum*, vol. I., lib. 1., *passim.*

§ See *Romberg on Diseases of the Nervous System*, vol. II., chap. xxxii.; *Sir Henry Halford*, Bart., M.D., on the influence of some of the diseases of the body on the mind, in his *Essays and Orations*, Essay V. *Cook on Nervous Diseases*, Appendix to Vol. II. p. 77. *Copeland on Palsy and Apoplexy*, (Philadelphia; reprint, 1850,) pp. 163, 175.

from his family predisposition to apoplexy, and also in some measure from their tendency to loss of vision; and that such changes really existed, is sufficiently apparent from the history and progress of the case itself, as well as from the admissions of the medical attendants.

The early attacks of vertigo, or determinations of blood to the head; the recurring turns of unconsciousness or partial apoplexy, commencing as far back as 1850, two years before the European tour; the more alarming seizure while abroad; the similar seizure recalled to Dr. Delafield's recollection, at a later date; the overwhelming attack of July, 1849, by which Mr. Parish was permanently disabled from all the active occupations of life, and isolated from society at large; the paralytic and other symptoms that followed in the train of this; the epileptic seizures; the periodical paroxysms of excitement and ill temper, followed by periods of passive indifference, showing a total change from his former equable temper and disposition; the loss of voluntary power throughout the right half of the body and limbs; the loss of control over the natural evacuations; the inability to converse, while still retaining to some extent the power of enunciation; the inability to write while still able to see, and to use the left hand freely for supplying his physical wants; the failure to employ artificial signs for the expression of distinct thought,—not to speak of numerous other minor features of the case,—all readily and naturally resolve themselves into the mere manifestations of one continuous disease within the brain; which, however it may have begun, must, as early as the seizure of 1849, have already assumed an organic character. By this view of the case, the numerous ailments and disabilities of Mr. Parish, not already otherwise accounted for, are easily understood; and they are not to be explained either

rationally, or in accordance with the established principles of medical science, on any other hypothesis.

c. *Organic Disease of the Brain, as Affecting the Intellect.*—There are instances in which very limited organic changes in the brain lead only to partial loss of function. This loss, commensurate with the internal disturbance, commencing imperceptibly, and progressing slowly, may for a season be compatible with mental capacity for many of the ordinary duties and responsibilities of life. The progress of disease in this respect, is like the progress of age, often so insidious as to escape our notice, until it at length declares itself clearly, and unmistakably to the most casual observer.* But an organic disease of the brain sufficient to produce the disabilities under which Mr. Parish labored, in and subsequent to July, 1849, must have been wide-spread within the skull, and not limited to a small portion of the cerebral mass. Its effect must have been exercised upon the mind, as well as upon the body. For the brain is the organ of thought and intellectual perception; and its integrity is as essential to a thorough and unembarrassed exercise of the intellectual functions as of the mere animal or physical powers of the body.†

34th.—*Summary View of the Organization and Functions of the Nervous System.*

The view of Mr. Parish's case now stated, I am aware, is not in strict accordance with opinions expressed by some of the medical witnesses. It becomes, therefore, necessary to examine these, so far, at least, as they have a bearing upon the facts and principles of

* Sir Henry Holland's *Mental Physiology. Chapter* VIII.; On the Memory, as affected by Age and Disease.

† Carpenter's *Human Physiology.* § 228 et seq.

medical science. But before doing so, it may not be amiss to give some brief general description of the organization, distribution, and functions of the nervous system in man, so as to render the terms which we may have to employ intelligible, and the subject itself comprehensible to all.

The various actions proper to the living body in its internal as well as its external relations, are under the direct control of the nervous system. This consists of the brain, the spinal cord, and the nerves proper, which are connected with these, or which proceed from them to every other part of the body. The nervous system, which is the great source of living action throughout the whole frame, is itself, in turn, kept in healthful operation, through the support which it derives from its due and equable supply of arterial blood.

The nerves proper are small white cords or filaments, serving, like electrical wires, for conducting the nervous influence of the brain and spinal cord to every organ, and every set of organs, in the body; and for bringing back impressions, healthy or unhealthy, from the various organs of the body to the common centres of the nervous power.

The brain and spinal cord are protected from external injury by bones and other coverings. The brain occupies the cavity of the skull; and the spinal cord, which is but a prolongation from the brain, passes downward through the centre of the bones of the back, from the great opening in the base of the skull, to the bottom of the spinal column. The configuration of the cavity of the skull is ovoidal; except at its base, where the general ovoidal shape is interrupted, anteriorly, by the inner projections which correspond to the upper part of the sockets of the eye-balls; and again, by two lateral projections which correspond with the bones of the ears. These irregularities at the base of the skull

are further increased by a central projection in front of the great opening at the base of the skull through which the spinal cord descends, and by other much smaller openings for the passage of nerves and blood-vessels, mostly in front of this. These irregularities at the base of the skull give it the appearance of three distinct compartments, which leave their corresponding inpressions on the base of the brain itself, and justify the divisions of the cerebrum into the anterior, middle, and posterior lobes.

Within this bony covering, the brain and spinal cord have three other envelopes, called *meninges*. The outermost of these is the *dura mater*, which is an unyielding membrane, as thick and firm as parchment. The next is the *arachnoid*, a thin, transparent membrane, thinner and smoother than the finest tissue paper, and taking its name from its resemblance to a spider's web. The innermost is the *pia mater*, a thin cellular mesh, as delicate as the preceding, embracing the substance of the brain and spinal cord very closely, dipping down into all their depressions, and extending into all the cavities of the brain. Upon the *pia mater* the bloodvessels of the brain ramify before passing into its proper substance for supplying it with nutriment.

Within the skull there are three projections from the *dura mater*, which serve as partitions between different parts of the brain. The first of these is the *falx cerebri*, extending from the roof of the skull along its whole middle line from before backwards, projecting downwards like a curtain, in a perpendicular direction, and dividing the upper portions of the cerebrum, but not through their whole extent, into two lateral halves or hemispheres. The *falx cerebri* terminates posteriorly on the upper surface of another projection, called the *tentorium*, which is horizontal, extending from side to side, and from about the upper level of the bones of

the ears, backwards to the occiput. This *tentorium* overlies that part of the brain which is called the *cerebellum*, and over it rest the posterior lobes of the *cerebrum*. Projecting downwards from the lower surface of the *tentorium*, is the *falx cerebelli*, which seems to be the continuation of the falx cerebri, and serves partially to divide the cerebellum into two lateral halves. The large veins or *sinuses* of the brain, are protected by running within the folds of these fibrous envelopes.

The *encephalon*, or brain proper, of an adult man, weighs about fifty ounces avoirdupois, or a little over three pounds. A large man has not a brain large, in proportion to the greater size of his body. But men of great intellectual power usually exceed others in the size of their brain, mainly by the greater development of the upper portions. Cuvier's brain is said to have weighed but little short of five pounds troy, and that of Dupuytren hardly an ounce and a half less than this. On the other hand, natural idiots have brains below the average weight. Tiedemann found the brain of an idiot forty years old weighing only one pound eight and a half ounces troy; and another, in an idiot forty years old, weighing one pound eleven and a half ounces. In advanced life, when the intellectual faculties fail, the brain undergoes a corresponding diminution, and the space left by the wasting is filled up with watery fluid. The great weight of the brain in man depends mainly on the great development of the upper and lateral portions, which constitute what are called the *cerebral hemispheres*. These do not exist at all in many of the lower animals. They are rudimentary in birds and quadrupeds, and increase in size among these only as their instinctive faculties increase in number, and approximate in character to the intellectual powers, which are proper to man himself. These hemispheres occupy nearly eight-tenths of the whole weight.

The *cerebellum* is common to man, and all the animals possessing a spinal column. It lies in the lower and posterior part of the skull, in a compartment by itself. Its function appears to be the co-ordination of muscular action, by bringing into harmonious operation all the nerves that influence muscular movements. The cerebellum weighs from an eighth to a tenth of the whole. The *medulla oblongata*, and the *sensory ganglions*, which make up the remainder, lie at the central portion of the base of the brain, and bring it more immediately into relation with the spinal cord. The medulla oblongata, with the several sentient ganglia associated with it, is the special portion of the brain connected with the organs of external sense; the nerves of smell, of vision, of hearing, of taste, have their origin from these parts; as also certain nerves of motion, and particularly those of touch and of common sensation, which supply the sense of feeling to every portion of the body. These sensory ganglia, with the medulla oblongata and the spinal cord, constitute the *cerebro-spinal axis*, which is common to almost every living animal. And even in those where the spinal cord is only rudimentary, the ganglia exist, and, independent of any mental influence, enable these animals to execute all their instinctive actions. From these facts it is clearly ascertained that, in man, these several portions of the brain are subservient to the intellect only so far as they minister to the actions of the cerebral hemispheres, which are superimposed upon them, and which are the special organs of intellectual action.

The proper substance of the brain and spinal cord is a pulpy mass, in some places of an opaque white, and in others of an ashy-gray color. The white is called the *medullary*, and sometimes the fibrous and the tubular portion; the gray, from its color, is called the *cineritious*, and sometimes the granular, or vesicu-

lar portion; and where it lies external to the white, or more superficially, as it does over the hemispheres of the cerebrum and cerebellum, it is called the *cortical* substance. This is the part in which the special power of the several nervous or ganglionic centres is generated, or within which that special power resides. The white or fibrous portion is subservient to the other, and appears to act as the conducting medium from one nervous centre to another, or between the nerves and their several centres of nervous influence. The proper apparatus, then, of every nervous centre, consists first, and most essentially, of its cineritious substance; secondly, of its white or fibrous substance; and lastly, of its nerve trunks, or nerves properly so called; which, as they proceed to the ganglia, are called the afferent, or concentric; and as they issue from the ganglia, are called the efferent, or divergent. Now, as the nervous centres in the spinal cord are, when unassociated in action with the sentient ganglia, merely automatic, their actions are called *excito-motory*, or simply reflex actions; and may take place independent of sensation or consciousness, though they are in some respects under the control of the sentient ganglia; and, through them, under the influence of the will. The actions that take place exclusively among the sentient ganglia, where the cerebral hemispheres are not in operation, are called *excito-sensory*, and these too may take place under circumstances where the intellect is, for the time, completely in abeyance.

The cerebellum being superimposed upon the medulla oblongata, holds a direct communication with the spinal cord, and has but a very slight connection with the higher portions of the encephalon, and we are justified in believing, from these and other circumstances, that its functions are mainly associated with muscular movements, and that it is in no way very

active in the operations of the intellect. The proper centre of intellectual power is admitted, by the physiologists of the present day, to be the cortical or superficial portion of the cerebral hemispheres. But as these are superimposed upon the sensory ganglia, they can operate only indirectly through these in influencing the actions of the body in its relations to the world around it. "We find," says Carpenter, "strong physiological, as well as anatomical, ground for the belief that the *cerebrum* has no communication with the external world, otherwise than by its connection with the sensori-motor apparatus; and that even the movements, which are usually designated as 'voluntary,' are only so as regards their source, the stimulus which calls the muscles into contraction being, even then, issued from the cranio-spinal [cerebro-spinal] axis, as it is in the movements prompted by the reflex stimulation of an external impression."*

Again, superimposed upon the terminal nerves of the cerebro-spinal axis, or associated with these, there is another system of ganglionic centres, with which the cerebral hemispheres have no direct relation, and over which the will, or consciousness, has no cognizance—these are the *sympathetic ganglia;* and the nerves proceeding from them are ranged in front of the spinal column immediately behind the larger viscera of the abdomen and the chest; their functions are to reinforce the power of the cerebro-spinal nerves, and to preside over the processes of vegetative life. They may be in healthful operation though the functions of the cerebrum are permanently arrested. These differ from the other nervous centres in not having a symmetrical arrangement; that is to say, in not having the portions on the one side to correspond with those on the other.

* Carpenter's *Principles of Human Physiology*, § 466, p. 438.

But though each of the great centres of nervous force has its own special functions, yet the action of the whole is somewhat regulated by the general amount of nervous power throughout the body, and an exhaustion of, or over-draught upon, that power at any point when very great, will lead to a depression of nervous energy at every other point. Great bodily fatigue, by exhausting for a time the nervous force from the excito-motory apparatus, will interfere with the activity of thought. Excessive pain, by exhausting the excito-sensory apparatus, may operate in the same way, and any disease of sufficient gravity permanently to diminish the normal amount of nervous power generated in the system, will permanently cripple or enfeeble the functions of both mind and body.

An excessive exhaustion of nervous power, however, in any of the organs of sense, may arrest the functions of that organ before the supply is very materially influenced in other parts. The eye may become amaurotic, or the ear permanently deaf, from over-action or abuse, without impairing the general amount of nervous force; but an extensive scald, or the crushing injury of a limb, may leave the patient utterly unconscious of pain; and while he is yet able to speak, to see, to hear, and to describe every circumstance connected with the accident, he may be totally indifferent to the wounds inflicted upon his injured member by the surgeon's knife. Moderate, regular, and long-continued use of an organ, may quicken and improve its functions; and by such exercise the force at the nervous centre supplying it, may be correspondingly augmented; but on the other hand, the loss of function in any organ will sooner or later lead to a corresponding loss of force, and sometimes to complete wasting, in

the ganglionic centres, as well as in the nerves, through which it is supplied.

The *Spinal Cord* is to the brain as 1 to 40; it is in shape somewhat cylindrical, and has along its whole course an anterior and a posterior fissure, which divides it into two symmetrical lateral halves; and these again are subdivided, in function rather than to the eye, into the anterior and posterior columns. The cineritous portion of the cord is central. In its passage downwards the cord sends off at every interspace between the vertebral bones, anterior or motory, and posterior or sensory nervous roots on either side; and these roots immediately afterwards coalesce into right and left nervous trunks, to be distributed to their respective sides of the body and limbs. There are twenty-four pairs of these spinal nerves passing from between the vertebral bones, besides a few others lower down, which pass through the terminal openings in the sacrum, or thick bone behind the hips.

But though the posterior roots of the spinal nerves are sentient, they are so only in virtue of their communication (indirectly through the central portion, or through the anterior columns in the cord) with the sentient ganglia within the brain. When the spinal nerves act only through the influence of their own proper central gray substance in the cord, their action is simply excito-motory, and unattended with conscious sensation. A common fowl, with its head severed by a sudden wound from its body, will flutter and jerk about as if convulsed, and continue to do so for some minutes before it dies. A frog, lizard, or other cold-blooded animal, treated in the same way, may live for hours and days; and as long as life is retained, if touched or impressed in any manner, it will retract the muscles and move the limbs that happen to be irritated, although the seat of sensation has been annihilated.

Excito-motory actions of this sort are indicative of life, but they have nothing more to do with sensation or volition than the closure of the leaves of the mimosa or sensitive plant, which follows the touch of the finger or the weight of an insect upon them. It is in this way that irritation, whether healthy or diseased in any organ or set of organs, excites corresponding action, independently of real sensation, in other organs or sets of organs more or less remote from them through their common centre of reflex influence in the spinal cord. An overloaded stomach may thus excite irritation in the diaphragm, and give rise to hiccough; or may bring into play other muscles and excite vomiting; or, where the irritation is still more diffused, may give rise to convulsions; and so of other organs, and actions, over which the will has no control.

The *medulla oblongata* is a prolongation from the spinal cord upward. It is scarcely two inches in length, and is thickest at its upper part. It rests on an inclined plane or shelf of bone ascending obliquely forward and upward, in front of the great opening at the base of the skull. It has, like the cord, its anterior and its posterior fissure partially dividing it into two symmetrical halves, lying side by side; and each of these is again marked by slighter depressions, dividing it into three parts. Of these, the posterior is called, from its fancied resemblance to a rope, the *restiform body*, (*corpus restiforme*,) the ascending fibres of which are continuous with those from the posterior column of the spinal cord. The anterior, from its fancied resemblance to an inverted pyramid, is called the *pyramidal body*, (*corpus pyramidale*,) and the fibres of this part are continuous with those from the anterior column of the spinal cord. The middle portion, rather smaller than the other two, and occupying only the upper portion of the medulla oblongata, has the oval shape of an

olive, and is hence called the *olivary body*, (*corpus olivare.*) The fibres of this portion of the medulla oblongata are continuous with those of the anterior columns of the spinal cord.

These several bundles of fibres constituting the medulla oblongata, proceed from it, at its upper termination, to distinct portions of the cerebral mass above them. But before their ultimate separation, the medulla oblongata seems to lose itself in, or to be embraced by, a thick nodule of transverse nervous fibres, which constitute the *nodus cerebri*, *tuber annulare*, or *pons varolii*. This body after partly embracing the several bundles of the medulla oblongata, and sending its fibres in between them, ultimately spreads out backwards to form the *crura cerebelli*, and lose itself in the cerebellum, serving as a bridge of connection between the right and left halves of the cerebellum with the anterior columns of the medulla oblongata. To the cerebellum are also sent the fibres of the two *restiform bodies*, so that the cerebellum has two distinct connections with the medulla oblongata on either side. But deep at the bottom of the posterior cleft of the medulla oblongata, portions of each restiform body constitute what are called the *posterior pyramids*, which send their fibres upward and forward through the pons varolii, decussating, or crossing each other, as they ascend.

The *olivary bodies* send most of their fibres directly upward, to terminate immediately over the top of the medulla oblongata in four little eminences, not much larger than four small peas, one above the other on each side, and known as the *tubercula quadrigemina.* A few fibres, however, from the olivary bodies extend still further forward, and can be traced into the other sentient ganglia in front of them.

The *pyramidal bodies*, corresponding both to the

motor and to the sentient portions of the spinal cord, stand in the relation of roots to the cerebral hemispheres; but only indirectly so, through their intermediate connection with the censory ganglia in front of and above them. But they also send a few fibres backwards to mingle with those of the restiform bodies as these proceed towards the cerebellum, and thus the corpora pyramidalia serve as the general point of union for almost every other portion of the cerebral masses. Again, at the bottom of the fissure between these two pyramids there are bundles of fibres—four or five bundles from either side—crossing over obliquely to the side opposite. These decussations partly fill up the fissure here, and mark the point at which the medulla oblongata loses itself in the spinal cord.

The decussation of these motory fibres of the anterior pyramids with that of the sentient fibres of the posterior pyramids already mentioned, has an important bearing; and by it we are able to understand how disease or injury in one side of the brain gives rise to disturbance, or to arrest of function, in the opposite side of the body.

The ascending fibres of the anterior pyramids, after emerging over the top of the nodus cerebri, proceed upwards and forwards for about three-fourths of an inch, where, incorporating with new deposits of cineritious matter, and with some fibres from the posterior pyramids, they constitute the *crura cerebri.* These are two cylindrical-shaped bodies at the base of the brain, lying nearly side by side posteriorly, but slightly diverging from each other anteriorly, and containing a track of sentient as well as of motor fibres.

Proceeding still further upward and forward, with an outward divergence, the fibres from the pyramids next expand out, combining with the proper substance of two other ganglionic centres, and forming what are

called the *thalami optici*. These two bodies, of an oblong ovoidal shape, also lie side by side, but hardly so as to touch each other at their bulging internal edges. They have, however, stretching across from one to the other, two small cross-bands, or commissures, by which they are brought into direct relation with each other.

Diverging still further forward and outward, the fibres from the pyramids ultimately terminate in two ganglionic bodies, which, from the striated appearance of their white and gray substance, are called the *corpora striata*. These are somewhat pear-shaped, their broadest part projecting forward and inward, where a transverse band or commissure extends from the one to the other; and their apex or narrowest portion ranging backward and outward along the outer border of the thalamus.

The nervous trunks proceeding from these ganglionic centres, and finding exit through openings along the base of the skull, between the root of the nose and the great posterior opening of the spinal cord, are arranged into nine pairs. The *first pair* are the olfactory, or nerves of smell. These originate in front of all the others in a small ganglionic centre of their own at the point of junction between the anterior and middle lobes of the brain; but they have an indirect communion further back with the inner surfaces of the thalami. The *second pair* are the optic, or nerves of vision, which pass to the eye through the bottom of the orbits or sockets of the eye-balls. These, posteriorly, are lost in the tubercula quadrigemina, though their nervous centre through these bodies, is in the gray matter of the olivary bodies in the central portion of the medulla oblongata. The *third, fourth, and sixth pairs*, are all distributed to the muscles of the eye, and leave the skull through a cleft or opening at the bot-

tom of the orbit. They are minute nervous trunks, originating from the motor track at and above the upper limits of the medulla oblongata; but quitting the substance of the brain at different points. The *fifth pair* belongs to the general system of spinal, rather than cerebral nerves, having each a motor, and a sensitive root, from the motor and sensitive tracks of the medulla oblongata; and quitting the skull, by three separate openings, to be distributed to the face, forehead, and teeth, to parts within the orbit and nostrils; and one branch, the gestatory, is the proper nerve of taste in the tongue. The trunk of the *seventh* pair includes two distinct nerves,—one the auditory, or nerve of hearing, originates in a ganglionic centre behind the medulla oblongata near the posterior pyramids; the other, the facial, comes from between the restiform and olivary bodies just below the pons varolii, and quits the skull through a small opening behind each ear, to be distributed to the muscles of the cheeks. The *eighth pair* includes three distinct nerves, which all quit the skull together. The lowest of these, properly speaking, is a spinal nerve, and is sent to the muscles at the root of the neck; this is the spinal accessory. The uppermost, or glosso pharyngeal, comes off from the medulla oblongata just below the facial, and is destined to parts about the throat and posterior portion of the tongue. The middle of the three is the vagus or pneumo-gastric, an important nerve, which distributes its branches to the larynx, or apparatus at the top of the wind-pipe in which the voice is formed, and to the viscera of the chest and abdomen. The last, or *ninth pair*, are the hypoglossal, which leave the medulla oblongata immediately below the roots of the pneumo-gastric, and are destined to the muscles of the tongue and other parts low down on the neck. But the points of emergence of these several nerves from the medulla

oblongata and parts contiguous, do not always indicate their nervous centres: those for sensation being traceable to different points within the sentient, and those for motion to different points within the motor tracks; and these tracts, as already indicated, extend far forward; the sentient terminating anteriorly in the thalami; and the motor, in the corpora striata; and in these two sets of ganglia we have, in all probability, the focal influence regulating voluntary motion, and common sensation, throughout every organ of the body.

The functions of the several ganglionic centres above described, are in some measure ascertained from our knowledge of the uses of the nerves derived from them. These nerves have no immediate connection with the cerebral hemispheres, except through the medium of these ganglia, which stand, as it were, internunciary between the proper organ of the intellect and its outposts—the proper organs of external sensation, special and general. Through the agency of these ganglia, are executed all the *excito-sensory* actions, which are strictly instinctive, and which are performed with or without the cognizance of the mind; and even more accurately and certainly among the lower animals, where there as yet exists no cerebrum, or only the traces of a cerebrum, than in man himself. And that many of what appear to be volitional acts in man, are merely excito-sensory, and of an instinctive character, we have the most sufficient evidence. The fly lighting on the hand or foot of the sleeping child, causes an involuntary contraction of the limbs without exciting consciousness. A ray of light falling upon the shut eyelids excites a wrinkle of the eyebrows; the impression of the nipple on the lips of the new-born infant, throws the whole muscular apparatus of the mouth and fauces into active operation. We shrink from danger,

or from an offending object; we cry out to warn others to avoid it, or we grasp hurriedly at the nearest object offering protection or relief, before we have time to give expression to articulate speech, and before we have time for either reason or reflection. In these and a thousand other similar actions, our impulses and movements, even to the expression of our countenance, are strictly excito-sensory and instinctive. So also are at times the actions of the somnambulist; though in his movements the stimulus to action, while it is always involuntary, may be as readily excited in the ganglia of the sensori-motor apparatus through impressions reaching these from the cerebrum, as through those which are communicated from without.

The Cerebral Hemispheres, as already remarked, are implanted directly upon the sensory ganglia. The divergent fibres from which they take their origin, spring from the outer and lower borders of the thalami and corpora striata, and extend thence downward, forward, backward, laterally outward, and then upward, to the arch of the skull, spreading out over the upper surfaces of the ganglia already named, and filling the whole remaining portion of the cavity of the skull. The various portions of the hemispheres, with their white or medullary substance innermost, and their granular substance the most superficial, are thrown into innumerable folds, or as they are called, convolutions, with intervening deep depressions, for giving greater surface to the layers of cortical substance. As the hemispheres approximate each other along the upper line of the skull, their fibres dip downwards along the sides of the falx cerebri, and on reaching its lower edge, they unite together by a transverse horizontal band of white substance called the *corpus callosum*. This is the great middle commissure of the hemispheres; narrow transversely, but about three inches long; uniting the hemispheres

throughout more than half their length, but leaving the cleft between them perfect for a space both anteriorly and posteriorly. The anterior edge of the corpus callosum, which is the thickest, loses itself inferiorly by prolongations which reach the base of the hemispheres in front of and under the corpora striata. Its posterior edge turns down to become the *Fornix*, which is a thin plate doubling forwards under the corpus callosum, and of a triangular arching shape; broadest posteriorly, where it partly covers the inner surface of each of the thalami optici; and terminating anteriorly in two delicate pedicles, which pass through a narrow space downwards to the base of the brain.

Where the cerebral hemispheres double over the upper surface of the corpora striata and thalami, they leave an interspace constituting an irregular-shaped longitudinal cavity on either side. These cavities are the *Lateral Ventricles*. They extend through the whole length of the middle lobes, and through a portion of the anterior and posterior lobes of both hemispheres. They approximate towards each other anteriorly, where they are separated only by a thin double perpendicular layer, which projects from the anterior border of the corpus callosum, and which is called the septum lucidum. Posteriorly the floors of the Lateral Ventricles are partly covered in by the thin expansion of the fornix, under which, between the two thalami, lies a narrow cleft or cavity running perpendicularly from behind forwards, which is the *Third Ventricle*. This, by means of a minute opening, communicates with the lateral ventricles above on either side of it; and again, posteriorly by a narrow opening which runs beneath the corpora quadrigemina,—it communicates with another cavity, called the *Fourth Ventricle*, which lies between the cerebellum and the posterior or upper ace of the medulla oblongata.

The Commissures or bands of union between the different portions of the brain, the most of which have already been noticed, are either transverse, uniting the halves of the brain on the right and left, or they are longitudinal, and uniting the several portions of the same side, antero-posteriorly. Thus, without again referring to the decussating fibres of the pyramids, as transverse; or to the whole of the three great bands of the medulla oblongata, as longitudinal fibres, we have the nodus cerebri or transverse commissure of the cerebellum. We have crossing at the base of the brain thin lamellæ, which spread out between the ganglia of either side, closing in the cavity of the third ventricle; then the small commissures that cross this ventricle, from one thalamus and one corpus striatum, to the other; and over all these the great commissure of the hemispheres, the corpus callosum. These constitute the series of transverse commissures. Among the longitudinal we have a band of fibres extending lengthwise over the outer edges of the corpus callosum, uniting the anterior, middle, and posterior portions of either hemisphere. We have below the corpus callosum, the thin expansions of the fornix, which may be said to unite the functions of both a transverse and a longitudinal commissure; and, behind this, we have the minute projections from the tubercula quadrigemina, which proceed forward to the thalami; and again the valve of Vieussens, which serves as the roof the fourth ventricle, and connects the cerebellum with the tubercula quadrigemina. These several commissures bind together the different divisions of the cerebral mass; uniting its various fibres and ganglionic centres so intimately that, in the performance of their respective functions, none of these parts can be very seriously affected without implicating to a greater or less extent, every other part. The difficulty of analyzing the symptoms of disease in any one part

of the brain, it may now be seen, is no less the result of our imperfect knowledge of all the functions of the part, than of the disturbances which may be excited by it in other portions of the encephalon. But by the careful study of development in the ascending orders of the animal kingdom, and by tracing the general distribution of the white fibres from and to the several centres of nervous force, we can arrive at something like a clear perception of the general course of nervous influence, from the centre to the periphery of the whole nervous system. We have no anatomical reason for classifying the intellectual powers; but *the source of intellectual action is in the convolutions of the cerebral hemispheres.* From these the nervous power is propagated to the corpora striata, and thalami optici, to the crura cerebri, and thence to the pyramids of the medulla oblongata; from which, by the crossing of the fibres, it will be conveyed to the opposite halves of the spinal cord, and through the nerves springing from these to the terminal extremities of these throughout the body. This being the route along which volition is propagated to the muscles, and common sensibility to every sentient organ, it is easy to understand how an apoplectic clot or morbid deposit in any part of this track within the skull, by rupturing, compressing, or otherwise disturbing the fibres among which it lies, or the ganglia within which it is deposited, may be followed by paralysis; and how the same result may follow where a state of softening among the fibres or their ganglia, has interrupted their continuity, or destroyed their vital powers. The cerebellum being the source of power for its own special uses, that force will be propagated from the gray matter of its numerous lamellæ, along the fibres of the restiform bodies and of the crura cerebelli to the posterior columns of the spinal cord. And here, as in the fibres converging from the

cerebrum, if the seat of disease be in the white matter, the channels along which the nervous power descends will be interrupted; if it be in the gray matter, the sources of nervous power will be impaired or annihilated. "In all cases the extent of the paralysis will be proportioned to that of the lesion, and for the most obvious reasons."*

The course of upward influence to the cerebrum from without, through the ganglionic centres of the special organs of the senses, may vary somewhat in accordance with the particular organ of sense that happens to be in action, but in the general direction of these impressions from the ganglionic centres upwards, the course will be the reverse of that which communicates the motive power to the muscles. In apoplectic and other diseases within the brain, though sensation as well as motion may be paralyzed in the limbs and other parts of the body, yet the loss of motive power is much more frequent, and usually much more marked, than that of sensation. An injury or disease within the brain, producing total loss of both sensation and motive power, is usually of the gravest character. And the loss of motion may be complete whilst impairment of sensibility in the paralyzed member is but little, if at all observable. But such facts only serve to show that "the channels of sensation are more numerous than those of motion; and that if one route be interrupted, another is easily opened. It may be that the commissures are valuable instruments for this purpose; and it is highly worthy of notice that no segment of the cerebrum has so many commissures either with the opposite or its own side as the optic thalamus."† It is here, too, worthy of notice, that in the double arrangement

* Todd & Burns' *Physiology*. Philadelphia reprint, p. 263.

† Ibid, p. 263.

of organs throughout the body, nature has provided for the execution of the functions by a single organ when its fellow of the opposite side is for the time incapable of action. For even those organs which occupy the middle range of the body have a symmetrical and double distribution of their parts, and offer no exception to this general law. The one eye sees, and the one ear hears, and the one side of the tongue moves and tastes, while the other, from paralysis of its nervous power, is incapable of executing any function; showing that the sentient ganglia on one side of the brain continues to act, while those of the other side, from accident or disease, are no longer in possession of their vital force. What happens to the sentient ganglia, also, from the same causes, may happen to the hemispheres above them; so that while intellectual action is arrested in one hemisphere, the other may still be capable of manifesting a fair amount of intelligence; never, however, to the full and equal measure of which the brain is capable in its healthy state. And even though one hemisphere is occasionally thus capable of executing all the natural functions proper to it, the force of its operations is, at best, feeble; and from the ready and easy propagation of irritation from one portion of the brain to the other, the disease of one hemisphere almost invariably entails disturbance of function, to greater or less extent, in the other. Finally, to adopt the words of Carpenter, "although every segment of the spinal cord, and every one of the sensory ganglia, may be considered, in common with the cerebrum, as a true and independent centre of nervous power, yet this independence is only manifested when these organs are separated from each other; either structurally—by actual division; or functionally—by the suspension of the activity of other parts. In their state of perfect integrity and complete functional activity, they are all

(at least in man) in such subordination to the cerebrum, that they only minister to *its* actions;—except so far as they are subservient to the maintenance of the organic functions, as in the automatic acts of breathing and swallowing. With regard to every other action, the will, if it possesses its due preponderance, can exercise a determining power; keeping in check every automatic impulse, and repressing the promptings of emotional excitement. And this seems to result from the peculiar arrangement of the nervous apparatus; which causes the excitor impression to travel in the upward direction if it meet with no interruption, until it reaches the cerebrum, without exciting any reflex movement in its course. When it arrives at the sensorium, it makes an impression on the consciousness of the individual, and thus gives rise to a *sensation;* and the change thus induced being further propagated from the sensory ganglia to the cerebrum, becomes the occasion of the formation of an *idea.* If with this idea any pleasurable or painful feeling should be associated, it assumes the character of an *emotion;* and either as a simple or as an emotional idea, it becomes the subject of *intellectual operations*, whose final issue is in a *volitional determination*, or act of the will, which may be exerted in producing or checking a muscular movement, or in controlling or directing the current of thought.

"But if this ordinary upward course be any where interrupted, the impression will then exert its power in a transverse direction, and a 'reflex' action will be the result; the nature of this being dependent upon the part of the cerebro-spinal axis, at which its ascent has been checked. Thus, if the interruption be produced by division or injury of the spinal cord, so that its lower part is cut off from communication with the encephalic centres, this portion then acts as an inde-

pendent centre; and impressions made upon it, through the different nerves proceeding to it from the lower extremities, excite violent reflex movements; which, being thus produced without sensation, are designated as 'excito-motor'—so again, if the impression should be conveyed to the sensorium, but should be prevented by the removal of the cerebrum, or by its state of functional inaction, or by the direction of its activity in some other channel, from calling forth ideas through the instrumentality of the latter, it may react upon the motor apparatus by the 'reflex' power of the sensory ganglia themselves; as seems to be the case with regard to those locomotive actions which are maintained and guided by sensations during states of profound abstraction, when the attention of the individual is so completely concentrated upon his own train of thought that he does not perceive external objects, though his movements are obviously guided through the visual or tactile senses; such actions being dependent upon the prompting of sensations, are 'sensori-motor,' or 'consensual.' But further, even the cerebrum responds automatically to impressions fitted to excite its 'reflex' action, when from any cause the will is in abeyance; and its power cannot be exerted either over the muscular system or over the direction of the thoughts. Thus in the states of reverie, dreaming, somnambulism, &c., whether spontaneous or artificially produced, *ideas* which take possession of the mind, and from which it cannot free itself, may excite respondent movements; and this may happen also when the force of the idea is morbidly exaggerated, and the will is not suspended, but merely weakened, as in many forms of insanity,"* and he might also have added in many transient disturbances of the health.

* Carpenter's *Physiology*. Philadelphia reprint, pp. 439, '40.

35th.—*Review of the Medical Evidence in reference to the Disease of the Brain, and its Effect upon the Intellect.*

With these observations on the general arrangement and functions of the brain and nervous system, we are the better able to proceed in our examination of the opinions propounded by the medical witnesses in reference to the disease under which Mr. Parish labored, and the effects of that disease upon the functions of his mind, as well as upon the condition of his bodily organs.

a. *Organic Disease of the Brain admitted.*—The existence of organic disease of the brain in Mr. Parish's case has, indeed, been admitted by Drs. Delafield, Markoe, and Wilkes: but the extent and character of this disease they leave open to conjecture; nor do they fully admit the intimate relation of such disease to the mental condition of Mr. Parish.

b. *But its Relation to the Condition of the Mind not fully acknowledged by the Witnesses.*—The following questions were propounded to Dr. Markoe; I give them with his answers:

"In cases of evident mental disease apparent in the lifetime of a subject, does anatomical post-mortem inspection always discover any physical appearances to which, as causes immediate or mediate, the mental disease is assignable?" To which he replies: "It does not; it does very rarely." (II. f. 2132.)

"Does post-mortem anatomical inspection exhibit physical disease in the brain in cases where no symptoms of mental disease have been exhibited in life?" To which he replied: "It does very often." (II. f. 2132.)

Now with regard to the two replies to these ques-

tions, I would simply say, that they are in direct opposition to the established principles of medical science; and that, as they stand in the evidence given before the Surrogate, without supposing Dr. Markoe intentionally erred in his answers, they are nevertheless incorrect. The proofs of this assertion I hope to establish as we proceed; and for the present I may simply say, that if the words "very often" had constituted a portion of the answer to the first question; and the words "very rarely" had constituted a portion of the answer to the second question, transposing them interchangeably, the two answers would have much more nearly approximated to accuracy.

c. *No Post-Mortem Examination.*—There was no post-mortem examination, "Because," says Dr. Delafield, "I knew no useful end that could be gained by it; and further, I did not wish, without a good object, to wound the feelings of the widow." (I. f. 3295.) But the opinion that no useful end could be gained by a post-mortem examination, is not sustained by the evidence of Dr. Markoe, who, on being asked—"After his death, was the propriety and necessity of a post-mortem examination presented to your mind?" replied —"It was; it occurred to myself, and I spoke about it." "To Dr. Delafield; I believe, to no one else." (II. f. 2112.) "He stated that the family were opposed to the thing itself, and referred, I think, to the fact, that it had never been permitted in his family, owing to this feeling." (II. f. 2131.) Dr. Delafield, however, was aware, as he himself admits, that the soundness of mind and intellectual capacity of Mr. Parish were likely to become a question of judicial inquiry,—a question in which his own sister, Mrs. Parish, would be personally interested. He must have known, then, that as principal physician in attendance, every

medical fact that could throw light upon the case, would be required of him. Under these circumstances, neither his own theory of the case, nor his regard for the feelings of the widow or of the members of his family, at the moment, can be accepted as a sufficient reason for neglecting a matter so important to the elucidation of the case, as the post-mortem examination.

Convulsions from Disease of the Brain.—Mr. Parish had, according to Dr. Delafield, "a number of attacks distinct from the general disease; but the most frequent depending upon its cause—or, in other words, depending upon the condition of the brain which led to the disease." (I. f. 2070.) Alluding to the nerves as connected with the loss of speech, he says, "They all come from the brain, and when they are affected, we infer that the part of the brain whence they are derived is in some way implicated in the disease." (I. f. 3169.) Again, in allusion to the convulsions, he admits that the nervous centre from which these emanate is the brain, (I. f. 3223;) and when asked whether he considered these convulsions to be connected with the general apoplectic disease, he answered, "It would be more proper to say they were connected with the condition of the brain left by the apoplectic attack." (I. f. 3223.) The foregoing are among the few passages in which Dr. Delafield makes direct allusion to the brain as the primary seat of disease in Mr. Parish's case. Dr. Markoe's views on this subject are not always very explicit. "The case seemed to me," says Dr. Markoe, "to be one of the usual ones, in which the paralysis depends upon a lesion (organic disease) of the brain." (II. f. 1972.) Speaking of the condition immediately preceding death, he says, "It was a complicated disease, however, depending, I should say, as we supposed, upon the condition of the brain." (II. f.

1991.) He is asked what he considers the source or cause of the convulsions, and says, "It is mere matter of speculation." Yet he admits that they may have had some connection with the condition of the brain. (II. f. 2104.)

e. *Dr Markoe's theory of Aphonia, or Loss of Speech.* —In attempting to account for Mr. Parish's inability to converse, Dr. Markoe turns away from the lesion of the brain to an hypothesis about paralysis of the "great function of association." And when asked to explain what he means by this "great function of association," he says, "It is a function by which the special functions of particular muscles are so combined and harmonized, that these single functions thus combined produce a great combined function, by means of the combination; and though without such combination, each single muscle might produce its peculiar function, a great combined function could not be produced." (II. f. 2073.) This explanation not being clearly understood, he is again asked whether by this "great function of association," he does not mean that power "which guides into harmonious action the several muscles or organs required to co-operate in producing a certain effect?" But this, he says, he does not mean, "because that guiding power may exist presently, and the instrument through which that guiding power acts may be wanting, as in the case of paralysis." He admits, however, "that this great power of association" must have an organ, or instrument, through which it acts, and that this instrument is "the nerves which go to supply the part acting." And again, that "the nervous or other centre from which the function of association takes its source, or derives its power," is, after all, "the brain." (II. f. 2072–'5.)

f. *Dr. Markoe's Theory of Epilepsy and of Epileptiform Convulsions.*—We must refer to still another point to show Dr. Markoe's somewhat singular tendency to avoid associating Mr. Parish's disabilities with organic disease of the brain—a tendency which has led him to misapply some of the terms of medical science. He states that Mr. Parish "was subject to epileptic spasms during a large portion of his illness." (II. f. 2031.) But this word "epileptic" he proceeds to qualify, saying, "I use it in a very general acceptation, so as to include all habitual, sudden, convulsive seizures, whether from disease of the brain or from other causes." So far, of course, he is correct; but he goes on to say that, "Technically, it is confined to a certain class of cases not referable to disease of the brain, but depending upon general disorder of the nervous system; cases such as those of Mr. Parish are called epileptic, more from convenience than any thing else—the term that would be precisely proper would be epileptiform." (II. f. 2032.) Dr. Delafield, also, on this point, speaks with hesitation. The spasms, says he, to which Mr. Parish was subject, "would be called simply convulsions; whether epileptic or not, would give rise to difference of opinion." (I. f. 3227.)

What is Epilepsy?—Now, a convulsion occurring but once, and from some temporary disturbance, would not, of course, be called epilepsy; although it might have the form of epilepsy. Such are the convulsions of children, from indigestion, and other temporary sources of irritation. A convulsion occurring in the female, when it assumes the epileptic form, might be erroneously judged to be epilepsy, especially if it be of occasional recurrence; yet even in the hysterical convulsions of females, there is rarely the foaming at the mouth, or the loss of consciousness, or the ensuing stu-

por of true epilepsy. But convulsions from some fixed disturbance, recurring at intervals for years together, in a male subject far advanced in life, with the symptoms above indicated, would hardly go by any other name than epilepsy. "Diseases within the cranium, by irritating excitor nerves, or the medulla oblongata," says Dr. Marshall Hall, "induce convulsions or epilepsy, too frequently, alas! of an incurable character. Disease within the spinal canal may prove the source of convulsions or epilepsy still more immediate. This form of epilepsy is also, for the most part, incurable." These forms of epilepsy, whether cerebral or spinal, Dr. Marshall Hall classifies under the head of *centric*, while those forms which result from irritation in organs remote from the nervous centres, as in the stomach from indigestible food, in the intestines, in the uterus, &c., he classifies under the head of eccentric epilepsy.* The term *epileptiform* is a qualifying word of very recent introduction, and is applied to convulsions depending on temporary disturbances and that are not of habitual recurrence, as in the eccentric epilepsy of Marshall Hall. Thus Dr. Carpenter, in his work on Physiology, speaks of "epileptiform convulsions," brought on by loss of blood in the parturient woman; and of the "epileptiform paroxysm, induced by strangling or suffocation, or by the poisonous action of hydrocyanic acid." But of true epilepsy, he tells us, the primary seat is in that portion of the brain which is composed of the sensory ganglia. "We seem," says this able author, "entitled to consider the sensory ganglia, as the primary seat of that combination of loss of sensibility with convulsive movements which essentially constitutes *epilepsy*." "The disordered action," he continues, "manifestly extends itself to the cerebrum; for a maniacal paroxysm fre-

* Lectures on the Nervous System. Philadelphia reprint, 1856, p. 198 and 202, '3.

quently occurs in connection with the epileptic attacks, the attacks themselves are sometimes preceded, and very commonly followed by considerable confusion of intellect; the disease is seldom long persistent without impairing the memory and the control of the will over the mental operations, and in cases of long standing, the power of the cerebrum appears to be almost entirely destroyed."* In the still more recent work of Todd and Bowman, we find the same association of epilepsy with disease of the brain. "The convulsions of epilepsy," we are here told, "arise from a similar cause; namely, irritation of the brain, involving the whole or part of the spinal cord and the nerves arising from it. In many instances the convulsions are limited to one-half of the body; in such cases, there is generally lesion of the brain on one side, and the cerebral excitement is propagated only to one-half (the opposite) of the cord."† The modern writers on practical medicine are equally explicit on this point. "Epilepsy," says Dr. Wood, "may, therefore, originate in and be sustained by inflammation of the brain, or by any other organic alteration, as tumors, osseous spicula, or exostosis, depressed bone, thickened membranes, effusion, &c., which shall produce a certain amount of irritation in the cortical substance sufficient to suspend function, and a somewhat less amount in the white substance, sufficient only to excite and derange function. If the cause operated on the former substance alone, we should have coma or delirium; if on the latter alone, we should have spasm or paralysis, as in cerebritis. It is clear, too, that an irritation sent to the brain from any point of the body whatever, which shall be equally forcible as

* Carpenter's Human Physiology. Philadelphia reprint, 1856, p. 642, '3, § 718.

† *Physiological Anatomy and Physiology of Man.* By R. B. Todd and W. Bowman. Philadelphia reprint, 1857, p. 281.

that originating in the brain, and have the same special directions, will produce the same effect. The epilepsy, strictly speaking, is the same in both cases." * "Epilepsy," says Sir Henry Halford, "has this peculiarity about it, that the patient who is so afflicted, though an object of terror and of pity to those who witness his struggles under a fit, yet, by the mercy of heaven, he himself is unconscious of the frightful attack. He sleeps after his frame has been convulsed from head to foot, and awakens unaware of all that has passed; 'himself again.' Repeated fits, however, at length weaken the faculties; his memory suffers decay, his judgment becomes unsound, derangement follows, and this alienation of mind degenerates at last into idiocy. I do not say that this is the cause of all epilepsies. Many attacks of epilepsy are symptomatic only of some irritation in the alimentary canal, or of some eruptive disease about to declare itself, or of other occasional passing ills. So far, Julius Cæsar was an epileptic; and so far it has been said was Mahomet, also," and so far, he might have added, was the great Napoleon. "But these attacks were of no consequence in deteriorating his [their] masculine mind [minds]. No; the dreadful consequences which I have detailed, as affecting the faculties, belong to epilepsy as a primary disease, connected with, and originating in, some organic mischief within the cranium." † Thus we see that modern writers are of one accord in placing the irritation of epilepsy in the brain; and, that this has always been allowed to be the principal seat of the affection, we learn from the writers of all ages. Such, we have already intimated, was the idea of Galen, who tells us

* *Treatise on the Practice of Medicine.* By G. B. Wood, 4th edition; Philadelphia, 1855, p. 754.

† See the chapter on the Influence of Some of the Diseases of the Body on the Mind, in his *Essays and Orations.*

that vertigo and apoplexy, as well as epilepsy, have their seat within the skull. "Ilingus enim est tenebrosa vertigo, quæ fit quum humor in capite movetur, ideoque epilepsiam et apoplexiam præcedit."* The force of these criticisms will be apparent as we proceed.

g. *Dr. Delafield's Theory of Apoplectic Changes in the Structure of the Brain.*—Dr. Delafield, in attempting to account for the dulness of intellect, which he admits was discoverable in Mr. Parish during the last few weeks of life, says: "The clot of blood, which was probably left in the substance of the brain in his original attack, may have eventually so far involved a large portion of the brain by softening and otherwise, as to produce the effect in question." (I. f. 3314.) But, if it be admissible to comment upon what appears to be Dr. Delafield's theory of Mr. Parish's case, I would most respectfully remark, that here again we find views not in strict accordance with the ordinary processes of diseased action. For, blood escaping from the vessels and forming a clot within the substance or upon the surface of the brain, where it does not immediately lead to a fatal issue, cannot long remain stationary at the point upon which it is deposited. In course of time it is re-absorbed and carried off, as is commonly observed in the escape of blood from bruises and other injuries near the surface of the body. The brain is no more likely to form a permanent nidus for a clot of blood than any other vascular organ; and the blood escaping and forming a clot in the brain, is as efficiently, and, in many cases, as readily absorbed as if it had been thrown out beneath the surface of the skin. It is for this reason, that in ordinary cases of apoplectic effusion, we usually look for a fair degree of recovery

* *Opera Galeni, loco citato, ut suprà.*

in the course of a few weeks; and the symptoms that may be subsequently noticeable, are to be attributed, not to the continued existence of a clot, but rather to the softening, the inflammation, or other lesions of the brain itself resulting from that clot, or that led originally to the escape of blood and the formation of the clot, or that were brought about in the process of its removal. "The period occupied by these different changes," says Rokitansky, "up to the complete healing of the apoplectic cell, cannot be accurately determined. In general, it may, perhaps, be said that the apoplectic cyst is formed within two or three months; but nothing is certain with reference to its subsequent changes and closure. These depend mostly on the size of the cyst." * "Abercrombie has detailed an instance in which a coagulum, that must have been of very considerable size, had entirely disappeared in less than five months. In another of his cases, it was seen to be partially absorbed at the end of three months. On the other hand, Moulin found a small coagulum, not quite gone, at the end of a year; and Riobé observed some of the blood still remaining in a cavity, of small extent, after twenty months. In two cases Serres found a hard coagulum of blood remaining; in one, at the end of two; and in the other, at the end of three years." † But these, at most, be it remembered, are exceptional instances, and in none of them had the coagulum existed half the length of time assigned to it by Dr. Delafield in the case of Mr. Parish.

Mr. Parish, then, had something more than a temporary lesion of the brain from a clot of blood. The clot of blood affords no sufficient explanation for the

* *Rokitansky's Pathological Anatomy.* Sydenham Society's translation. Vol. III. p. 393.

† *Lectures on the Principles and Practice of Physic.* By Thomas Watson, of London. Philadelphia reprint, p. 315.

permanency of his paralysis, and above all, for the epileptic seizures and the paroxysmal attacks of excitement and ill-temper; not to speak of other symptoms. If, then, there were softening, inflammation, and other organic changes involving a large portion of the brain or its membranes, in Mr. Parish's case, resulting from a clot of blood, these changes must have commenced early after the attack of July, 1849, and could not have been brought about for the first time only within a few weeks of dissolution. When apoplexy does not terminate fatally at once, it may do so, after a short interval, by the inflammation and disintegration of the brain, caused by the clot. But, says Rokitansky, "Another secondary and more remotely fatal result may ensue at any stage of the healing process when already commenced and advanced; its symptoms are those of paralysis and imbecility, marasmus, tabes, anœmia, &c. This latter secondary mode of death is partly occasioned by those diseases of the brain which are developed in consequence of the apoplexy and the healing process." And among these changes brought about in the brain, he enumerates, softening, loss of substance, and atrophy or wasting, accompanied with œdema or dropsical swelling, or with induration and discoloration, and giving rise to premature marasmus or decay of the brain, "and early failure of its powers." *

But in inflammation of the brain and its meninges, in softening of the cerebral substance, and in the other organic changes complicating apoplexy, we find the same symptoms as where these are the primary and sole affections. Now in meningitis, or inflammation of the meninges, M. Andral tells us the perversion of intellect is a phenomenon more constant even than lesions of sensation or of locomotive power, and this perversion

* *Rokitansky's Pathological Anatomy.* Vol. III. p. 396.

may manifest itself either by delirium or coma. "In fifty-four cases of meningitis of an acute form in adults, reported by Parent and Martinet, says Andral, there were but two in which the intellect was unaffected, and in every one of those reported by Dance there was disturbance of the intellectual faculties." * In reference to the mental disturbances that may precede, accompany or follow apoplexy, Andral gives a formidable series. Among the after-effects he speaks of the mind remaining enfeebled in the great majority of cases. But "instead of mere impairment, the intellect may be more gravely altered. From page 539 to 550 he gives the forms of intellectual disturbance accompanying ramollissement or softening of the brain. There are cases, he says, in which the mind remains sound, but in others the intellectual faculties are completely annihilated from the start, either by instant loss of consciousness or by coma, from which the patient may recover, rarely, however, to his former condition; usually he recovers in part only, and he is afterwards obtuse of intellect till his death. In other cases the loss of intellect is not complete at first, but sooner or later it undergoes a notable change, and its impairment persists to the end."

h. *Dr. Delafield denies the need of a Post-Mortem Examination, and his Reasons for this Opinion.*— Dr. Delafield, when asked, "Do you mean to be understood that, according to your judgment, a post-mortem examination of Mr. Parish could not have thrown any light upon the nature of his diseases, or the connection of these diseases with the condition of his mind in life?" replies, "I do: in any way peculiar to his case, or in any way explanatory of the condition of his mind as peculiar to himself." (I. f. 3296.) Passing

* *Clinique Medicale, tome V.* p. 197. Paris, 1854.

over the obscurity of the qualifications appended to this reply, we need only say, by way of comment upon it, that a post-mortem examination, properly conducted, would have developed the nature and extent of the disease within the brain; and from the degree of lesion discovered, we might be the better able to say whether there was or was not a sufficient amount of healthy brain remaining, and at the proper portions or divisions of the brain, for the efficient exercise of the intellect. For, notwithstanding our imperfect knowledge of the physiology of the brain, and of its respective parts, we know that certain portions of it are more intimately associated with the intellectual functions than other parts; that the seat of intellectual action is in the convolutions on the upper surface and anterior portions of the brain; that the seat of conscious sensation and volition is in the sentient ganglionic bodies; and that the power of harmonizing the muscular and voluntary actions is, in all likelihood, seated in the cerebellum.* We know, too, that the brain, as a whole, is a double organ; and that the right or left half of it may be more or less impaired, without necessarily implicating the functions of its fellow; and yet that these two halves are so intimately associated by commissures or bands of union, and are by necessity and habit so intimately associated in action, that where the one half is diseased, the other half almost invariably is disturbed in its functions, though not always to the same extent.†

* *Carpenter.* Chapter XI. sections 3, 4, 5.

† For an account of the functions of the different portions of the brain, as far as these have been ascertained, beyond what I have myself already stated in a previous section, I must refer to the admirable chapter treating on this subject in the work of Carpenter, already cited, particularly to section 3d, 4th, 5th, 6th, and 8th, of chapter XI. And to the XIth chapter of Todd and Bowman's Physiology. See also Sir Henry Holland's chapter on the brain as a double organ, the eighth chapter of his Mental Physiology. See also the curious work of Wigan, on the Durability of the Mind.

i. *His Reasons not satisfactory, even in cases of temporary mental Aberration.*—Dr. Delafield holds that a healthy appearance of the brain on dissection cannot be taken as conclusive evidence, or nearly so, that the mind must have been sound up to the time of death. (I. f. 3296, '7.) This is true; for the brain may suffer, and its functions may be perverted by other causes than organic changes,—by vitiated blood, by sympathetic irritation from disease in other organs, and by agencies too delicate to be determined by the skill of the anatomist. But the frequency of such healthy appearances in connection with temporary disturbances of the mind, requires, at this point, a moment's consideration; for, notwithstanding the truth implied in Dr. Delafield's remark, and notwithstanding the paradoxical answers given by Dr. Markoe, to which we have already alluded,—it may safely be held that thorough inspection of the brain, even in cases of temporary mental aberration, will, in the majority of instances, furnish explanation for the symptoms during life. Todd and Bowman are explicit on this point. They tell us that,

"When the membranes of the brain are in a state of inflammation, disturbance of the mental faculties is an invariable accompaniment, to an extent proportional to the degree of cerebral irritation, and more especially so when the inflammation is seated in the *pia mater* of the convolutions. * * It is plain that in such cases the delirium arises from the altered state of the circulation in the gray matter of the convolutions, the blood-vessels of which are immediately derived from those of the *pia mater*, so that the one cannot be affected without the other likewise suffering. And it may be stated as a fact no less interesting in a physiological than important in a practical point of view, that in many, if not in most, instances of violent de-

lirium, such, for example, as delirium tremens, the vesicular matter of the convolutions is found after death to be bloodless, as if its wonted supply of blood had been cut off from it. Thus it happens in the delirium after great operations, in that of rheumatic fever, and perhaps also in gout, and in that which occurs in the more advanced stages of continued fever. We learn from the most trustworthy reports of the dissections of the brains of lunatics, that there is invariably found more or less disease of the vesicular surface, and of the *pia mater* and arachnoid in connection with it, denoted by opacity or thickening of the latter, with altered color or consistence of the former."*

But the question is again put to Dr. Delafield: "Considering that Mr. Parish was sound in mental health up to 1849, that his ailments, as far as discoverable in life, were known to you, do you mean to say that if to these facts were added, a healthy brain, so found on examination after death, the evidence thereby afforded of his being of sound mind at his death would not be conclusive or nearly so?"—to which he replies, "As the question is now put, the evidence would be good to that amount, or nearly so." (I. f. 3297.) If, then, there was reason to believe that the condition of brain such as is here spoken of, could have existed in Mr. Parish's case, surely the proponent in the suit now before the Surrogate was entitled to the demonstration of it; and hence again the necessity for the post-mortem examination.

k. *Dr. Delafield on the Loss of Speech.*—Dr. Markoe, as we have already shown, ascribes Mr. Parish's inability to speak to the loss of some "great function of association," which, however, he finally admits may have its source of power within the brain. Dr. Dela-

* Todd and Bowman, page 322, '3.

field, when questioned on this point, gives us to understand that an examination after death could not have shown whether the organs of speech were paralyzed or not. (I. f. 3298,'9.) He is asked, "Would a post-mortem examination of an apoplectic subject determine whether the omission to speak arose from impaired intellect, or from affected organs of speech?"—and says, in reply, "I think not in the least." (I. f. 3317.) But such examination might have enabled him to say whether, in Mr. Parish's case, the loss of speech depended simply upon disease within and about the air-passages of the mouth, throat, and chest; or upon lesion of the nerves, or the roots of the nerves, within the skull; or upon lesion of some single point within the brain itself, not sufficient wholly to arrest the action of the convolutions, or to arrest all intellectual action; or whether it depended upon some wide-spread disease within the brain, by which the intellectual functions, and the functions of the particuar nerves of sense and motion were simultaneously and equally overpowered.

1. *The proper Exposition of this point of the Case.*—The proper exposition of this point, however, requires the admission that inability to speak, as a result of apoplexy, may co-exist with a certain degree of intellectual and perceptive power—sufficient, indeed, in some instances, to indicate a moderately fair degree of understanding. Facts bearing on this point are too numerous to be questioned. But it is to be recollected that the individuals of this sort, whose cases are on record, are usually spoken of incidentally as to their degree of intellectual power, and not as in the full integrity of their understanding, determined to be in such estate after a thorough investigation. Cases similar to those recorded in the books, where the individual had evidently some remaining mental power, although

unable to converse or to express more than a few simple words, I have myself met with. But in none of these could the mind be considered sound; the loss of speech in all of them being associated with other equally remarkable indications of mental imbecility, as in the case of Mr. Parish. In Todd and Bowman's Physiology is found the following exposition of this subject: "Perfect power of speech, that is, of expressing our thoughts in suitable language, depends upon the due relation between the centre of volition and that of intellectual action. The latter centre may have full power to frame the thought; but unless it can prompt the will to a certain mode of sustained action, the organs of speech cannot be brought into play. A loss of the power of speech is frequently a precursor of more extensive derangement of sensation and motion. In some cases the intellect *seems* clear, but the patient is utterly unable to express his thoughts; and in others there is more or less of mental confusion. The want of consent between the centre of intellectual action and of volition, is equally apparent in cases of this description, from the inability of the patients to commit their thoughts to writing." * It will be remembered that, in Mr. Parish's case, both of these disabilities existed, as was the fact in the cases that have fallen under my own notice, though in neither of these were the disabilities so well marked, or so complete, as in his case. Looking, then, at the cases in the books, as they stand reported, I am not prepared to accept any one of them in proof of integrity of intellect associated with loss of speech, where that loss has been the result of disease within the skull, originating in apoplexy, and associated with convulsions, or paralysis; and much less, with both of these combined. I shall again have occasion to allude to this subject.

* Loco citat., p. 325.

m. *Amaurosis in its Relation to Diseases of the Brain.*—When questioned as to the sensation of motes before the eyes, which is said to have been for a season one of the complaints of Mr. Parish, Dr. Delafield attributes them to mere functional disturbance of the retina. Dr. Wilkes ascribes them to an operation performed upon the eye for cataract many years previously; and Dr. Markoe seems to be in doubt as to the existence of any such disturbance, attributing Mr. Parish's complaints of this sort to his over-solicitude for the preservation of his still remaining measure of vision. (II. f. 1993.) Dr. Delafield admits this sensation of motes floating before the eye to be an "occasional, not usual," symptom of amaurosis. (I. f. 3320.) The writers on diseases of the eye speak of it as a very frequent and usual symptom of commencing amaurosis. "A common symptom of incipient amaurosis," says Lawrence, "is the appearance of the floating of moving bodies in the eye."* And Rognetta speaks to the same purpose: "Ordinairement l' amaurose commence par une sorte de faiblesse dans la vue; les objets sont converts de brouillards, de corpuscules noirs, d'une gaze de plus en plus épaisse vers le soir"—"ou vision de mouches voltigeantes. Ce caractère constitute souvent la première période de l' amaurose."† But amaurosis, like other deep diseases in the eye, may, and often does, depend upon lesion within the skull. And in Mr. Parish's case there is every reason to believe that the optic tract or optic nerve within the skull, as connected at least with the left eye, must have been diseased, and probably atrophied, or shrivelled, from the fact that through the greater part of his life, and perhaps from birth, he had never enjoyed the use of that organ. Rokitansky alludes to "shrinking of the optic thalamus

* Lawrence *On the Eye.* Philadelphia reprint, 1843, p. 490.

† Rognetta. *Ophthalmologie.* Paris, 1844, pp. 621, 622.

and corpora quadrigemina in consequence of blindness."* And Flourens found that destruction of the corpora quadrigemina on the one side was followed by the loss of sight on the opposite side.† A case of the sort has been recently reported in the periodicals, in which loss of vision in one eye was associated with atrophy of the optic nerve, as far back as the commissure, on the blind side; and, on the opposite side, behind that point.

n. *Dr. Delafield's Experience on the Healthy and Morbid Anatomy of the Brain, in its Relation to the Condition of the Mental Faculties.*—When asked, "Is it, then, your judgment that, in Mr. Parish's case, an examination immediately post-mortem of the brain and stomach could not possibly have thrown any light on the question whether he was of sound mind at the time of his death?" Dr. Delafield replies, "That is my judgment;" and, by way of confirmation, he adds, "I have repeatedly examined bodies when extensive disease existed in the brain, without any lesion of the mental faculties." (I. f. 3300.) Now, I look upon this last assertion as the most remarkable medical opinion stated by Dr. Delafield in the whole course of his examination, an opinion which I can hardly believe he could have intended to express in the unqualified manner in which it stands; and certainly one at variance with the teachings of medical experience, as set forth by the ablest anatomists and pathologists of the present day. I consider it to be as untenable, though not perhaps quite as striking, as the paradoxical positions assumed by Dr. Markoe.

There are exceptional cases now and then met with,

* *Pathological Anatomy*, vol. iii. pp. 379, 380. See also Lawrence *On the Eye*, under the head of amaurosis.

† Todd & Bowman, p. 312.

I admit, in which lesion of one side of the brain may co-exist with freedom from delirium and with some degree of mental activity, especially when it comes on very slowly, or where it happens suddenly and death ensues before the occurrence of inflammatory reaction. But mental activity is not always to be measured by freedom from delirium on the one hand, or from stupor on the other. And the capacity to answer simple questions rationally, or to narrate an ordinary occurrence, such as is commonly taken at the bed-side for soundness of mind, is a very different condition from that degree of mental integrity implied by the expression, "without any lesion of the mental faculties." There may be loss of force, loss of tension, loss of the ordinary vigorous and sustained energy necessary for the reasoning process; there may be lesion of intensity in mental action, as well as that lesion which is manifest by confusion of intellect or delirium, or that in which the intellectual power is actually annihilated. For the brain, to use the terms of M. Dubois d'Amiens, is not only the organ of the intellect, it is also the great focal organ of nervous power for the rest of the body. And it is worthy of remark, says he, that the paralysis induced by lesions of the brain, affects principally the muscles which are subservient to intellectual life. "La démence est l'idiotisme acquis, et survient surtout à la suite des manies et des monomanies. L'encéphale n'est pas seulement lésé comme organe de l'intelligence, il l'est encore comme foyer d'linnervation. Il-y-a alors des paralysies, mais il est remarquable que ce sont surtout les muscles qui servent à la vie intellectuelle." [*Archives Générales*, *tom.* 10. *Paris*, 1836, *p.* 101.] The brain again, like the eyes, the ears, and certain other organs, has a double structure, and with a moderate amount of injury or disease in one of its hemispheres, the other hemisphere, if uninvolved in the

irritation, may still be able, as we have already intimated, to carry on the functions proper to the organ; but not with the same power, the same intensity, the same facility as where both hemispheres are acting simultaneously and in healthy union. The person with only one healthy eye still sees, with one healthy ear still hears, but not so well as if both organs were unimpaired, and so of the two hemispheres of the brain; but then, even only under rare and peculiar circumstances. For the associated action between the right and the left hemisphere of the brain, is much more intimate than that between the double organs of external sense; and owing to their position within the unyielding bones of the skull, and their intimate coalescence at the base and central portions of the whole mass, the one part of the brain can hardly ever be subjected to serious pressure from without, or to the irregular afflux of blood, or to the accumulation of other fluids within, or affected with disease of any sort, without implicating in some way or other almost every remaining portion of the general structure.

Where no extra pressure, or interference with the circulation through the rest of the brain exists, one of the hemispheres may sometimes be injured, as in fracture of the skull and similar accidents where pressure is removed, without totally arresting, or even for a time very much impairing the ordinary action of the other hemisphere. Surgeons now and then meet with instances of this sort. Several such I might relate from my own experience; and to such as these Dr. Delafield's remark above cited might be in some measure applicable. These instances, however, are at most only exceptional; and they are explicable in the manner already stated. So that we may tsill hold, if there be any thing established in medical science, that the brain is the organ of the intellectual and moral functions,

some portions of it more particularly so than others, and that organic changes in this organ must have their corresponding relation to impairments, or loss of function in the mind itself. Science may not, as yet, enable us to go much beyond this; not so far at any rate, as to see and describe the particular points within the brain corresponding in all instances with particular functions or modes of action of the mind; but it enables us in some measure to approximate towards this degree of accuracy; and if the true relations of structure to function within the brain, have not as yet been demonstrated, it is only because they have not yet been detected, and not because they do not exist.

Mr. Parish had permanent paralysis, as we have seen, throughout the whole of the right half of his body and limbs, indicating organic disease in the left hemisphere of his brain; for the paralysis of the muscles is almost invariably on the side opposite to that hemisphere of the brain which happens to be affected. But he had also atrophy and loss of function in the left eye, indicating, as we have already shown, organic changes also in the right portion of the cerebral mass, so that the indications are that he had disease in both hemispheres.

o. *Sir Henry Holland's Remark on the Effect of Disease in both Hemispheres simultaneously, confirmed by Carpenter and Wigan.*—Now in this connection I must refer to Sir Henry Holland, who tells us "there is one important fact here which seems to be attested by as much evidence as the subject admits of. *In every instance where there exists any corresponding lesion or disease on each side of the brain, there we are sure to find some express injury or impairment of the mental functions: and generally permanent, whatever be its particular nature.* The bearing of this fact is ob-

vious, even though we cannot follow it into those details which might render it conclusive as to the particular relations of the two hemispheres."* Carpenter is equally worthy of notice also on this topic. "Many instances," says he, "are on record, in which extensive disease has occurred in *one* hemisphere, so as almost entirely to destroy it, without either any *obvious* injury to the mental powers, or any interruption of the influence of the mind upon the body. *But there is no case on record of any such severe lesion of both hemispheres, in which morbid phenomena were not evident during life.*" And, says he, where the disease is confined to one side of the brain, "the paralysis occurs on the opposite side of the body, as we should expect from the decussation of the pyramids; but it may occur either on the same, or on the opposite side of the face —the cause of which is not very apparent."† Again, to refer to still another writer on this point, "*There is, I believe,*" says Wigan, "*no instance on record of any considerable injury to both brains* [meaning both hemispheres of the brain] *being accompanied by full possession of the mental faculties.* One brain, we have seen, may be annihilated, and the mind remain entire, but injury to both is incompatible with sound mind. *To exercise all the mental powers and faculties it is absolutely necessary that there be at least one sound and perfect organ.*"‡

* *Mental Physiology*, p. 184.

† *Loco citat.*, p. 535.

‡ Wigan on the Duality of the Mind. Lond. 1844, p. 58. This author, in using the word "entire," employs it not in a strictly logical manner, in referring to the very facts that Wigan himself cites. Sir Henry Holland, in keeping with his more exact turn of thought, speaks as follows:— "Among the more remarkable cases to this effect, is that recorded by Curveilhier, where one hemisphere through every part was reduced by atrophy to half the dimensions of the other, yet with retention of all the mental faculties. The latter statement is obviously the *doubtful part* of the case, as will be understood by all who are accustomed carefully to look

p. *Dr. Delafield gives no Case in support of his Opinion.*—Dr. Delafield "cannot call such a case to mind at the moment" as that of a subject who prior to an apoplectic attack had been of sound mind, and who had had no subsequent disease affecting the mind, and where at death the brain was found healthy. (I. f. 3300.) But he says, "it is not at all unfrequent to examine the brains and rest of the body of persons dying with unsound mind, and to discover no lesion throwing any light on the matter." (I. f. 3301.) This latter proposition may readily be granted; though such is not generally the fact. The instances are exceptional; and the failure to detect the lesion of the brain in any given case, is no reason for believing that no such lesion existed. Our modes of investigation are imperfect. No one pretends to be able to unravel all the hidden mysteries of our organization, even in

into the evidences belonging to such points." (*See Holland's Mental Physiology*, page 183.) Dupuytren's own case offers no fair exception to the foregoing remarks; indeed, I can refer but to a single case in the course of my researches which seems in the least to militate against these views of Sir Henry Holland, Dr. Carpenter, and Dr. Wigan; and that is to be met with in the fifth volume of the *Clinique Medicale* of Andral (pages 348 and 349.) In this case the patient had recovered from a general prostration of nine years' duration, and had been bedridden about two years; the attack was supposed to have been ushered in by apoplexy; but the details are insufficient to make this certain. She died of cancer of the stomach. When M. Andral saw her at the hospital of La Pitié there was no remaining paralysis, and her intelligence, he tells us, was perfect. But after death he discovered a minute cyst filled with limpid serum, and with its walls shining and transparent, situated in the midst of healthy cerebral substance, about two inches below the surface of the right hemisphere, at the point of junction between the two anterior with the three posterior fifths, and near the level where the upper surface inclines to become the external. In the opposite hemisphere, at the level with, and to the outer side of the corpus striatum, another cyst was discovered containing serum, and precisely like that on the right hemisphere. But it is to be observed, that these minute cysts could hardly have been developed in any other way than by gradual growth; there were no traces of a previous apoplectic attack; the brain around them was healthy, and they were situated very remote from the cortical or gray substance of the convolutions which is the special seat of the intellectual functions.]

relation to the functions of the body itself, much less the more recondite operations of the mind. But it is here again to be recollected that the functions of the brain may be arrested or perverted by other causes than organic lesion. An unhealthy condition of the blood from diseased liver, will produce dejection of spirits, apathy, melancholia, mental alienation, and even coma, as profound as in ordinary apoplexy. An unhealthy condition of the blood from arrested action of the kidneys, will produce convulsions, paralysis, furious delirium, prostration of the intellectual faculties, and fatal coma not to be distinguished from the stupor of sanguineous apoplexy. Diseases of the liver and kidneys producing these various phenomena, I have myself witnessed in my own practice. In the same way, also, the brain may be disordered in its action by the introduction of poisons and other deleterious substances into the circulation; the poisonous effects of lead are characterized by paralysis. Mercury when long used, I have more than once known to produce mental imbecility; we need not allude to the temporary effects of alcoholic liquors, and of the various narcotics and anæsthetics; nor to the temporary aberrations of mind from undue afflux of blood to the brain, in hysteria and other merely functional disorders. But in all such cases, where a healthy condition of the brain is found to exist in connection with diseased condition of the mind, the history of the disease itself and a thorough investigation of all the circumstances, will afford a sufficient explanation. It is proper also to remark here that much of what was formerly written on healthy appearance of the brain among persons dying lunatic, a circumstance looked upon until lately as mysterious, must now be considered obsolete. The discoveries in morbid anatomy and pathology of late

years, have resolved most of these mysteries into functional disturbances from vitiations of the blood.

Dr. Delafield is asked if he had ever witnessed "a post-mortem examination of a paralytic subject who had had an apoplectic attack, and had never had the power of speech, or of writing subsequent to such attack?" and he replies, "no such case now occurs to me;" and by way of explanation he adds, "we do not ordinarily examine the bodies of paralyzed persons in private practice; and I have not been in public practice for a number of years." (I. f. 3301, '2.) In reference to this last remark, it is proper to say, that there is nothing connected with cases of paralysis that should render them less the subject of anatomical research than any other class of cases; nor are they in fact less frequently subject to post-mortem examination in private practice, by those accustomed to such investigations, than are cases of other forms of chronic disease; and there is much in connection with them still remaining to be discovered.

q. *The Countenance as an Exponent of Intellectual Capacity.*—Dr. Delafield, when asked, "Was there any difference in the power of the expression of the countenance after his attack and before?" replies: "I think not; in some particulars it was somewhat more active from the necessity of greater use." (I. f. 3317.) At another place, to a similar question, he states that the mobility of muscles, or the expression of face in Mr. Parish, was "hardly different from that of any other individual—any healthy individual." As compared with his previous condition, "There was no material difference; I would make a slight exception; at some period, I can't say when, there was occasionally a slight flow of saliva from one side of the mouth; very slight, and not perceptible by common observers, which

showed that the muscles of that side of the face, although not altered in appearance, were really not so strong as those on the other side." (I. f. 3042, '3.) The sexton, Isaac H. Brown, in reply to a similar question, says, "Oh, at times he would make an effort as if he wanted to speak, you know—a twisting of the mouth; that is my answer, sir." (II. f. 1726.) According to Dr. Markoe, the features of Mr. Parish, in his illness, were "not very different from health, with the exception of a slight drawing down of one corner of his mouth, depending upon a slight paralysis of his face. That refers to the face in repose. The play of feature was in all respects natural." (II. f. 2005.) Several witnesses speak of his smiling, and Dr. Wheaton even alludes, on one occasion, to "a significant laugh." (II. f. 621.) The Rev. Dr. Taylor, speaks of his countenance beaming with pleasure." But according to Mr. Kernochan, even in health, Mr. Parish was not very demonstrative of his feelings; and, in his illness "his pantomime was very limited." (I. f. 952.) His associate at the Racket Court Club, Mr. Wm. C. R. English, says of his countenance, in health, "There was very little expression indeed. My impression is, that he wore glasses at that time, and from what I could see of his eyes, they had very little expression;" "his features were very immovable." (III. f. 1662.) His general tone, after the attacks, says Dr. Markoe, was "depressed, uniformly almost, and low-spirited when I saw him." (II. f. 2021.)

Mr. Parish, as we have already seen, had never enjoyed the use of his left eye. The right eye had undergone the operation for cataract, and in order to enjoy any useful vision in it afterwards, he was obliged to wear a powerfully magnifying cataract-lens to supply the loss of the natural lens, which must have been destroyed in the operation; and we are told by Mr.

Henry Delafield, that Mr. Parish habitually wore these glasses in the house, as he had previously done before the attack. The lip was slightly drawn aside when the muscles of the mouth were brought into action, and there was, at certain times, a slight drivelling of saliva from the corner of the mouth. Under these circumstances little is to be derived from the features, as indicative of mental activity, except to show that the external senses, consciousness, and the power of recognizing those who were addressing him had not been wholly obliterated; a condition of mental obliteration rarely or never witnessed in dementia, even in the lowest stages. I do not know that I ever witnessed an instance, where the dementia supervened late in life, in which the patient's faculties were so completely overwhelmed by the disease of the brain, that he could not, while yet conscious and enjoying his sense of sight and hearing, respond by look, or by the play of features, to the countenance, if not to the words, of those who were addressing him. Now, it is this reflection of ourselves in the faces of others, with whom we come in contact, that is so apt to mislead us in our intercourse with the lunatic, the idiot, and the imbecile. There is a deceptive motion in the intellectual, as in the physical world. In both we judge of what is beyond us, from what is within us. The expression of a countenance, lit up from our own, though merely a reflex of ourselves, is often mistaken for the sign of a vigorous and controlling intellect. The look is the language of instinct; the dog, the horse, and other animals, know how to respond to the call of their master. It is only in the apartments of the most abjectly idiotic, or of the turbulent and refractory, that, on ordinary occasions, the stranger visiting our best regulated lunatic asylums, would discover that he was among the mentally afflicted. And we are told by the

writer, from whom I have borrowed this observation, "That a lady, after she had been shown over a large asylum by the celebrated Esquirol, inquired 'But where are the mad people?'"* In ordinary cases, the use of language enables us to undeceive ourselves in reference to the countenances of the alienated, in the same way that two external objects, seen in contrast, enable us to distinguish between real and apparent motion. But, unfortunately, in the case of Mr. Parish, this criterion of language was at fault. Had he been able to speak consecutively, even a few simple sentences, his mental imbecility would have been easily determined; and those who, in this investigation before the Surrogate, have been the most forward to give evidence in favor of his integrity of intellect, would, in all probability, have been among the foremost to acknowledge his incompetency. In dementia, as in idiocy, according to M. Dubois d'Amiens, there are three well-marked grades; in the first and least severe, the only intellectual powers are affected; in the second, the intellectual and the instinctive faculties are both impaired, whilst the automatic movements of the body are as yet uninvolved; but in the third and severest grade, the automatic movements are also implicated.† Now, among these three grades, it is easy to see that in which the case of Mr. Parish should find its proper place.

r. *The Taking of the Sacrament.*—There is still another point worthy of notice in this connection, namely, the circumstance stated by the Rev. Dr. Taylor, that Mr. Parish had apparently sufficient intelligence to receive understandingly the rites of his religion, and to follow the reading of the church service. But most

* *London Quarterly*, for April, 1857, in an article on Lunatic Asylums.

† *Archives Generales de Medecine*, tom. x. Paris, 1836, p. 101.

of the inmates of our lunatic asylums habitually perform precisely such duties of religion as are testified to in the case of Mr. Parish. The writer in the London Quarterly, to whom I have above alluded, remarks, "In the chapels of nearly all the larger lunatic asylums, the quieter inmates are accustomed to meet at the daily morning and evening service. In the spacious chapel of Hanwell and Colney Hatch, the attendance on week-days, as well as on the Sabbath, is far better than can be found among the same number of people out of doors, two hundred and fifty on the average attending on week-days, and five hundred on Sundays. * * 'The heartiness,' says the chaplain, in his report for 1856, 'with which they join in the responses and the psalmody is very encouraging, while their quiet, orderly conduct—the prayer offered up by many on entering chapel—the regularity with which they all kneel or sit, according to the order of the service—would, I think, if generally witnessed, put to the blush many of our parochial congregations.' Now and then an epileptic patient will disturb the chapel by his heavy fall; but as those who are thus affected are located near the doors, the interruption is but momentary. The choral service is well performed, and, in conjunction with the organ, has a visible effect in soothing the wilder patients, and in pleasing all. The sacrament is not denied to those who are fit to receive it; and no more touching scene can be witnessed than that which is presented in the chapel," &c.*

s. *Theory of the Medical Witnesses in reference to the Failure to Write as well as to Speak.—Was he unwilling?*—Dr. Wilkes is asked, "In your opinion as a professional man, is it not in the power of any person who has learned to read and write well, and has the

* London Quarterly, loco citat.

use of his left hand to the degree that Mr. Parish had, to write with the left hand?" and replies, "*If he was willing to make the attempt*, I should say yes; that is to say, as far as signing his name and not writing to any great extent." To which he afterwards adds, "I had heard that he *would not make the attempt.* * * I did not know it of my own knowledge, but was told so by Dr. Delafield." (II. f. 276, 277.) Now, in this reply of Dr. Wilkes's, we find the theory, elsewhere noticed as having also been assumed by Dr. Markoe, for accounting for the fact that Mr. Parish never communicated any thought to those around him, by writing or the use of the alphabet in any form. Dr. Wilkes, however, is evidently dubious of the truth of this hypothesis. He cannot reconcile it with the views which he himself had previously expressed of Mr. Parish's mental capacity. "What I mean to express is, that supposing this to be a fact, that he was unwilling to use these facilities, yet still, upon *other points*, he was capable of judging right and wrong." "It appears," says Dr. Wilkes, "as if there was a perversion in his mind upon this subject." (II. f. 284.) But what Dr. Wilkes advances as the theory of another, Dr. Markoe assumes and advocates as his own. For, in reference to this inability to speak as well as to write, he states, "I always attributed it to the fact of his being discouraged and irritated at his early attempts at writing and speaking, he would not try any others *effectually*." (II. f. 2107.) The word *effectually* is well put in here. But that he tried both to write and to speak, several times after his first attempts, *ineffectually*, has been sufficiently well established, if indeed he had mind enough to comprehend what he was doing. Dr. Markoe, however, sees that, if Mr. Parish would not make the attempt, the failure to write would be from unwillingness, not from inability,

and in consequence he tells us, "I believe that was the essence of the trouble; unwillingness to practise and to learn to do these things, was the essence of the trouble." (II. f. 2109.) But why had Mr. Parish to learn what, if his mind were as sound as before, he must have known sufficiently well how to do already? Had his mind been unaffected there would surely have been no further learning necessary, but simply the practice of a power which he already possessed. Dr. Markoe here, too, sees with sufficient perspicuity the slender ground upon which his hypothesis is based for maintaining the mental competency of Mr. Parish; as may be observed in his reply to the following question: "Take Mr. Parish's case as it was presented physically; that is to say, the left arm not paralyzed, the use of the sight adequate to ordinary purposes, such as reading words, letters, and figures, and inability to speak to any greater extent than you have described; and then suppose in addition, without regard to whether you believe the fact or not, that Mr. Parish, for the whole of these seven years, was actually unable to communicate by writing or by using the letters of an alphabet so as to form words, would you still be of opinion that he was of sound mind during that time?" and to this he answers, "I should think it would be a strong indication of unsoundness of mind; that is as near as I can come to an answer to the question." (II. f. 2110, 2111.) But elsewhere he has come nearer the correct and full admission, in granting that Mr. Parish could not, rather than would not, give expression to thought by any other means than by pointing, or by replying negatively or positively to direct questions. For, to the inqu ir "Had he the power of communicating any idea in reference to any subject or object not then before him, and to which he could not point?" Dr. Markoe answers, "Not directly—no, sir; we ar-

rived at such matters by direct questions, to which he could give a negative or affirmative. In *this way he had the power, but in no other.*" (II. f. 2118.) Again, in reference to speech alone, "He could not reach, by utterance, any objects not present directly; it was only by asking him questions, that could be done." (II. f. 2125.)

So, then, the failure to write and speak, was not an affair of unwillingness, but of actual inability. And Dr. Markoe, by his own showing, has upset the hypothesis upon which he rests his opinion of the mental capacity of Mr. Parish. But an hypothesis is untenable, that will not furnish an easy explanation of all the facts which it is intended to embrace. That Mr. Parish *would* not write, or use the alphabet, or artificial signs for expressing thought—and that he *would* not speak, might be, as two distinct propositions, logically tenable; provided that he had not frequently attempted, and failed, in respect to both the one and the other. But that he *would* not do the one, and that he *could* not do the other, is an assumption contradictory in itself. Granting, however, for the sake of argument that Mr. Parish *could*, but *would* not, exercise a faculty so necessary to him, and so essential for the proper management and disposal of his affairs, as that of communicating exact thought by writing, or by artificial signs of any sort, there would be no stronger evidence adduced than this to prove in him a perversity of intellect amounting to dementia. We know that the idiotic and demented are often prone to obstinacy;* and it would be difficult, I think impossible, to adduce another instance of such long-continued and obdurate perversity of will, even in the demented, as in this alleged instance.

* Mayo *on Medical Testimony on Lunacy*, p. 96.

Before leaving this topic, it is proper to allude to the case of Dr. Grayson, mentioned by Dr. Wilkes, as an instance of the loss of the faculty of writing, while this gentleman was still able to attend to his professional occupation. I learn, however, from a reliable source, that Dr. Grayson's intellectual faculties were seriously impaired before he ceased to sign his own bank checks. But, that he could still go about the city and visit the sick, was no indication of integrity of intellect. The late Dr. Thomas Boyd of this city did the same thing for years after he had become an imbecile; and did so even after it was necessary to send a servant with him to prevent him from losing himself in the streets.

There are other passages in the medical evidence which tend rather to avoid than to make an open exposition of the facts. I may here refer in illustration to what is said on the tendency of restraint and confinement, in giving rise to irritability of temper:—seeing that the irritability and change of temper in Mr. Parish were but manifestations of diseased action within the brain. But it cannot be profitable to dwell upon these passages.

t. *No Tests instituted for determining the Force of Intellect in Mr. Parish by any of the Professional Witnesses.*—There is, however, one more topic upon which it is proper to make a passing comment. When asked, "Did you yourself ever make any examination of Mr. Parish, or apply any test to him, for the exclusive purpose of ascertaining the state of his mind?" Dr. Delafield answers very briefly, "No." (I. f. 3305.) We have already shown that Mrs. Parish's counsel, Mr. Daniel Lord, makes essentially the same admission. And as to having been requested to make any such investigation, or apply any such test, Dr. Wilkes

says, "I never was in the slightest degree." And as to his having employed any test at all, he says, "I did not for that object." (II. f. 305, '6.) Again, Dr. Markoe, when asked, "Did you ever make any examination of Mr. Parish, or apply any test to him, for the exclusive purpose of ascertaining the state of his mind?" replies, "I never did in any shape or way." (II. f. 2055.)

These admissions on the part of these professional gentlemen, are of some importance, as showing in what manner they have reasoned in the case before them. We need not stop to notice the opinions of the numerous other witnesses, who lay no claim to professional acumen. But something like definite and logical investigation might have been expected from the physicians. To determine the degree of mental alienation, and settle the question of legal incapacity, or to disprove the supposition of such incapacity, knowing that this question was likely to be brought before them, was clearly the duty of these gentlemen; a duty requiring the most rigid scrutiny of facts, and the employment of every means within their power for eliciting the truth. Physicians trained to such investigations, even in dealing with persons able to give expression to their thoughts, are often at a loss to determine, after a few interviews, the question of sanity or insanity. When placed under any degree of restraint in their inquiries on this point, they are frequently misled; and with all appliances in their favor, they may require weeks of study and observation before arriving at the truth. In the majority of instances, however, the question may readily be settled by a well-arranged series of tests; and some of these are as applicable to the speechless as to other patients. For this purpose, as we have already shown, the countenance may be studied to little purpose; and the deportment, under

ordinary circumstances, especially in the fatuitous or demented, is too much the result of previous and long-continued habit, to be of any special service. The train of reasoning on abstract and remote subjects must be reached; and this, in the case of Mr. Parish, does not appear to have been attempted by any other witness than Mr. Folsom. The importance of resorting to tests for determining the sanity or insanity of the patient who is about to make a will, and whose affairs are in such a condition as may lead to litigation after his death, is ably set forth by Sir Henry Halford, particularly in his Fourth Essay, where he treats of tests, and gives a striking instance, in which he himself had been at first misled; and where he afterwards corrected his own judgment by requiring the patient to recapitulate what had already been dictated as his will. This patient, too, knew how to speak; and though he appeared to his solicitor sufficiently competent at the time of taking instructions for the will, yet he was ultimately allowed to die intestate. Sir Henry Halford, in this instance, used the common-sense test that Shakspeare puts into the mouth of Hamlet:

> "It is not madness
> That I have uttered: bring me to the test,
> And I the matter will re-word, which madness
> Would gambol from."

Again, to show that many of our habits are executed independent of the intellect, I may remark that, persons unconscious of all that is transpiring about them, in consequence of severe injury of the head, and while unable even to speak beyond a mere syllable at a time, if even to speak at all, may nevertheless make the proper movements for complying with the demands of nature. I have known a person thus situated groping beneath the bed for the urinal. And within the

past few days I have had charge of a patient who, after an injury of the head, was unable to speak, or tell where he was, or what ailed him, and yet he rose from his bed, dressed himself, and walked down stairs to the water-closet, wholly unconscious of what he was about at the time, and oblivious of it afterwards. Mr. Parish's rummaging in the wardrobe, his fingering of account-books, his strolling to the garret, to the cellar, to the market, and, doubtless, many other of the actions, upon which several of the witnesses have dwelt, are mainly to be accounted for in the same manner, as the automatic movements of these patients.

Mr. Parish is not shown to have been able to cast up a column of figures, or to correct a mistake in addition or subtraction, by pointing or by any other sign of intelligence. He is not shown to have understood the exact relation between two or more complex quantities, or compound proportions. He is never known to have expended money, giving the exact, or requiring the exact change. In fact, he was not allowed habitually to carry money about his person at all. We are told that he has pointed at the clock on the regular days for winding it, but we are not told that he has thus pointed only on such days, or whether his pointing was a spontaneous movement, independent of any observation made in his presence by those about him. We are told that his sign of inquiry and suggestion was to hold up two of his fingers, and that this sign, when used for suggestion, sometimes meant two hundred, sometimes two thousand. Wherein would have been the difficulty of requiring him, if he really knew the difference, to point these two fingers upwards, when he meant two hundred, and downwards, when he meant two thousand, and thus obliging him by his own act to settle the question whether he meant either the one or the other? When Brown, the sexton, called upon him, we are told that

the two fingers were held up crosswise, and that this was the sign for two five-dollar gold pieces, or the sign for ten dollars. Would it not have been proper to require of him to hold these fingers, thus crossed, upwards for dollars, downwards for dimes, and horizontally, to the right or left, if he meant any thing else than money? "I would ask him," says Mr. Henry Delafield, "if I should draw it [the check in favor of Dr. Taylor] in gold." (III. f. 121.) Why not give him the choice between gold, silver and paper money, requiring him to hold up one finger for gold, two for silver, and three for bank notes? Question of this sort would not only have saved much trouble and perplexity to Mr. Parish and those about him, but would have tested his mental capacity and his reasoning power, and so also his memory, and his comprehension of his own personal affairs. But no such conventional signs, as far as the evidence goes, appear to have been instituted for his use, or desired by himself for the communication of exact thoughts, in any one single instance; and the inference is, that none such could have been instituted by others for him, or devised by himself; the intellectual powers of comprehension being at fault in him, by which alone any such signs could have been directed. The case, then, was not one of mere loss of language, or of mere inability or disinclination to resort to writing, or to the use of the alphabet in any way; but, in connection with these disabilities, it was further characterized by loss of power on the part of the patient to learn from others, or to devise for himself any artificial means for the exact expression of his wishes, or to supply the loss of speech; and, as indicative of the most serious impairment of intellectual power, it was characterized by inability to discriminate between two or more simple abstract propositions, when so placed before the mind as to call collectively for its action upon them.

36th.—*Review of an Article Entitled, "To what degree are the Intellectual Faculties Affected in cases of Apoplexy and Hemiplegia?"*

In connection with our review of the medical testimony, it is necessary to notice an article which has appeared in the New York Journal of Medicine for September, 1857, and which was originally prepared by its author, Dr. Benjaman W. McCready, with the direct view to its bearing on the investigation now pending before the Surrogate.

This article is entitled, "*To what Degree are the Intellectual Faculties Affected in cases of Apoplexy and Hemiplegia?*" It is made up, for the most part, of selections from a work of little note by a Mr. Copeman, and from the orignal and more reliable researches of Andral and Cruveilheir, and of a series of cases from the practice of Dr. McCready himself, and that of other physicians with whom he has been in communication in the collection of his facts.

The main effort of Dr. McCready is to show, from the cases which he has brought together, that the profession at large are laboring under an error in believing that, "after recovery from the first overwhelming effects of an apoplectic seizure," "in all cases, the mind is more or less impaired;" and that, "in severe ones, the patient is apt to be reduced to a condition of partial or complete imbecility." He is ready, however, to account for this alleged error on the part of the medical public, assuring us that "systematic writers on the practice of physic give often some color of support to this opinion."

In thus apologizing for the profession at large, it is to be regretted that Dr. McCready did not go a little further, and grant that while medical practitioners and medical authors admit of exceptional instances, they

are, nevertheless, of one accord in maintaining that the tendency of apoplexy is always to deteriorate the intellectual faculties, and that not merely systematic writers on the practice of physic, but also the ablest and most reliable investigators in physiology, pathology, and morbid anatomy, give their sanction to this opinion. So that if it is an error, it is now for the first time publicly announced to be such, and only by the opinion of Dr. McCready himself. For notwithstanding the cases he has collected and published in this article, he has not been able, after more than a year's study of the subject, to name a single author, ancient or modern, whose opinion on the question, when fairly stated, is shown to be at variance with that of the profession at large. The "authorities" are all against him, hence he may very well add, "It is evident that the question cannot be settled by weighing authority against authority, and that the impressions of even well informed and experienced physicians are only valuable in so far as they are founded upon carefully observed facts." The "carefully observed facts," reported by other authors, are most likely to receive their true interpretation from these authors themselves. And as to the new cases from Dr. M.'s own practice or that of his friends, which he has brought to bear on the present investigation, we may very well accept his own remark when he says of them that "new observations, directed mainly to the condition of the mind, might be liable to the charge of bias in the interpretation of the facts on the part of the observer." (p. 203.)

After a summary exhibition of some eight or nine cases from the two hundred and more collected by Mr. Copeman, and some sixteen or eighteen others from Andral and Cruveilhier, Dr. McCready finds reason to justify himself in stating that from these researches "no other conclusion can be drawn than that

any impairment of mind, as a direct consequence of apoplexy, after the patient has recovered from its primary effects, must be an exceptional occurrence." The facts upon which this conclusion is founded, I shall notice directly. The qualification implied in the words "direct consequence," is here evidently intended as the saving clause; the *indirect* consequences, however, are too closely associated with the primary attack to be entirely ignored. But Dr. McCready sees the difficulty of accounting for the impairment of mind which actually ensues, and which he is not prepared to deny; and he attempts to get rid of this difficulty by assuring us "that the apoplectic seizure may hasten the approach of senile atrophy [wasting] of the brain," and that "when atrophy has already commenced, an apoplectic attack may undoubtedly quicken its progress, and in such cases the friends of the patient would naturally attribute the rapid decay of the mind wholly to the apoplectic seizure." (p. 217.)

He tells us, further, that "The confusion of mind, the difficulty in pursuing a train of thought, of which apoplectics are apt to complain, is in a great extent the mere result of diminished nervous energy." (p. 217.) He might have added that this diminution of nervous energy is permanent, is associated with disturbance in the equable influence of the nervous system throughout the body, and is the direct effect of injury of an organic character, at the great fountains of nervous power within the skull.

Of apoplectics, he says, "They comprehend well and judge correctly; but before their general health is confirmed they can no more think correctly than they can take a long walk, or perform any other act demanding a considerable expenditure of nervous force." (p. 217.) The logicians would tell us that judgment is the sequent, not the antecedent, of thought;

and if so, it is difficult to understand how apoplectics can judge correctly, when they cannot think correctly. But the power of comprehension, of thought, and of judgment among apoplectics, even in their best estate, is feeble, and easily disturbed, never equal to what it could have been before the attack, while the organic integrity of the brain was as yet unimpaired. For in the changes that precede, accompany or follow sanguineous apoplexy, the brain is injured, either by the rupture of its vessels, by the disintegration of its substance, by softening or unhealthy consolidation, by pressure, or by the growth of tumors. Changes of this sort, involving the intimate structure of the brain, leading to, or occurring in the train of apoplexy, it is out of the power of either nature or art to remedy. It is only in those slighter cases, arising from temporary vitiation of the blood, from undue fulness or congestion of blood, or from other circumstances not involving the integrity and intimate structure of the brain, that entire recovery after an apoplectic seizure is to be expected.

He tells us, "It is not the brain specially that is affected, it is the system at large." But it is the brain which is principally, primarily, and particularly affected. The affection of the system at large is the necessary consequence of the disorder in the brain; and the one is as permanent as the other.

"Of all the faculties, memory," he tells us, "either special or general, is most apt to be impaired; and this impairment patients are always ready to admit and complain of." (p. 217.) This concession need not be questioned, though it is hardly in keeping with other views expressed by Dr. McCready.

Having alluded to the memory, he might have proceeded further, since other faculties are often quite as seriously implicated; and not the intellectual faculties only. The propensities, the passions and emotions, the

temper and disposition, the peculiar traits of individual character, are all subject to serious changes; and the sufferer may become imbecile in respect to the intellectual faculties, and mentally perverted in respect to his other qualities.

"Before the physiology of the nervous system was understood as well as it is at present," says Dr. McCready, "it was pardonable to ascribe the emotional paroxysms under which hemiplegiacs are apt to suffer, to mental weakness; but it is strange that this error should still be persisted in." Here then is another error which people are still too perverse in their judgment, and too much disposed to rely on common-sense observations, to reject. It is to be hoped that Dr. McCready will furnish them with good reason for rejecting it, and for persisting in it no longer,—when he finds one. But the following is insufficient, and is the only reason he assigns for it: "The bursts of tears or of laughter into which hemiplegiacs are often thrown on the slightest occasion, are not, necessarily, more connected with an enfeebled understanding, than the want of power over the muscles of the affected extremities. Both facts have a common cause, and the will can no more control the one than it can move the other." (p. 218.) There is then, after all, an actual loss of power in the will of the individual over his emotions; and that loss, as the loss of muscular action, is depending on organic disease of the brain; and by Dr. McCready's own showing, not only the memory, but in like manner the will of the hemiplegiac, is deteriorated or perverted.

Dr. McCready has no new theory to offer in reference to hemiplegiacs who have lost the use of speech, and who have no power to give expression to exact thought by written language; but he is not an advocate for the theory on this subject which has been pro-

pounded by Dr. Markoe; for, says he, "The patient evidently understands what is said to him, spoken words excite in his mind the corresponding ideas, but he is not only unable to speak, he cannot write. If he attempts it, he joins letters together in such a way as to convey no meaning, and is often conscious himself, on seeing what he has written, of his failure; in some instances, probably while he comprehends words when spoken, he cannot recall them. But there are still cases left which seem to defy our analysis. In the strange union between mind and its material organ, the brain, physical lesions sometimes produce phenomena that put at fault all our psychological theories." (p. 220.) If all the rest of Dr. McCready's article were as unobjectionable, and as sensibly expressed, as the two last sentences of the passage just cited, there would have been little else than commendation to bestow upon it. But a bias toward his peculiar opinion is sometimes too much for him; and we find that, after an enumeration of cases of the most heterogeneous character, and which establish nothing positive, except that every apoplectic is not reduced to the lowest and most deplorate state of idiocy, he ventures upon the following statement: "In *all* the cases that have come to my knowledge, as well those recorded by others as those that are here given, where hemiplegia, with loss or perversion of the faculty of speech, has been unattended by coma or delirium, there is no evidence whatever that the intellect has been materially weakened." (p. 233.) This is surely quite enough to show the animus of his whole paper; but the following is the crowning thought: "So uniform," says he, "is the testimony in these cases, that it would seem as if the absence of speech in similar instances must be looked upon as *prima facie* evidence of clearness of understanding!" (p. 233.) It is a common saying that "a wise man knows when to

hold his tongue;" but, surely, silence is not on that account a *prima facie* evidence of wisdom. Let us now turn our attention to his cases.

Passing over the elaborate works in the English language that are commonly consulted in reference to the pathology and morbid anatomy of apoplexy, and other kindred disorders of the brain, and their consequences,—as Abercrombie on Diseases of the Brain and Spinal Cord, Copeland on Palsy and Apoplexy, Romberg on the Nervous Diseases of Man, Cooke on Nervous Diseases, the great collections of Morgagni on the Seat and Causes of Diseases, as rendered from the Latin, and the numerous writers on Physiology and Morbid Anatomy that dwell particularly upon the brain, and without an allusion to any of the authors treating of mental alienation, Dr. McCready has confined himself in his researches for the most part to the three works above mentioned, only one of which is in English, and that a work which few of the profession in this country have ever heard of, and fewer still have ever seen. The book of Mr. Copeman, entitled, "*A Collection of Cases of Apoplexy*," was published in London in 1845. It is a collection from other previous publications, and was prepared simply with the view of determining the value of bloodletting in the treatment of this disease; and with no view whatever to the pathology of the disease, much less to its direct effects upon the intellectual faculties. "The sole defect in this book," says an able reviewer, "is the scantiness of its materials." It is to be considered "not at all as the exposition of the present state of our practice and knowledge respecting the natural history and treatment of this disease,"* yet such as it is, we are willing to accept its facts, in the form even in which

* *British and Foreign Medical Review* for July, 1845, p. 198.

they are presented to us by Dr. McCready; who tells us that

"Mr. Copeman has recorded, from various authorities, two hundred and fifty cases of apoplexy: of these one hundred and seventy-five died without recovering from the immediate effects of the apoplectic seizure; of the remaining seventy-five cases, twenty-five have been rejected, because, from the detail of the cases given, evidence was wanting of their proper apoplectic character. Some of them were plainly cases of renal disease, others of puerperal convulsions, others of profound narcotism from alcohol, in two cases the attack might have been hysterical, and some were of doubtful character. All the cases thus rejected, are stated to have recovered, and no mention is made of any imperfection or unsoundness of mind having been left by them.

"Of the fifty cases of apoplexy with or without hemiplegia, which were analyzed, twenty-six were of apoplexy without paralysis; of these eighteen are stated simply to have recovered.

"In one of these cases (83 of Copeman from Abercrombie), a lady, 82 years of age, was seized at church with coma, lasting some days, attended with convulsions and apparent paralysis of the left side; she was restored to her usual health. This patient had had an apoplectic attack four years previously. In one case, (90 of Copeman from Cheyne,) the patient had had three previous attacks, the first of which had left his right arm paralyzed for twelve weeks.

"In two of the twenty-six cases, (7 & 150 of Copeman,) it is stated respectively, that after recovery the 'intelligence was sound,' and the patient was 'clear in the head.'

"In one of the cases, (141 of Copeman from Portal,) the patient's health was re-established, but he

did not recover his memory until some months afterward.

"In twenty-four cases the apoplexy was attended with hemiplegia.

"In sixteen of the twenty-four they are reported to have recovered perfectly, with the exception in some instances of slight paralysis still remaining; in two instances, (116 and 120 of Copeman from Bright's *Medical Reports*,) the patients are stated to have returned to their occupations, one a servant, the other a porter at a gate. In two of the patients, several years after their recovery, death occurred from a second attack." Such then are the statistics, after which, in Dr. McCready's article, we have an abstract of nine of the cases. These make but a sorry show in respect to intellect. I shall notice them only so far as they affect this question.

In the first three of these there were remaining symptoms of paralysis, and nothing whatever is mentioned in reference to the condition of the mind.

The next, (23 of Copeman,) "though recorded as one of apoplexy, was rather a case of softening of the brain." He fell in a fit, recovered his consciousness in five minutes, was hemiplegiac, and "although he was sensible, the energies of his brain and nervous system were impaired, and the muscular power consequently diminished. He lay helpless upon his back, and passed his motions and urine in bed." "He would make signs for the urinal, and so on; he understood what was said to him, yet he was much embarrassed to answer. He died of gangrene two months after the attack.

In the next, (30 of Copeman,) the patient, a female, aged 73, was left speechless, "but preserved, to a considerable degree, her intellect," and died in two days after the attack.

In the next, (50 of Copeman,) a woman aged 65, was left ten days after the attack hemiplegiac on the right side, "somewhat lethargic, but 'quite sensible to what was addressed to her, though unable to reply,' except by signs. She gradually improved for five days, having become able to sit up, when a second attack supervened, and carried her off."

In the next, (100 of Copeman,) the attack, in a man of 73, was induced by bad news. "After a time he recovered sufficiently to write for one of the weekly journals, although his memory became defective, and his mind frequently confused." Ten months afterwards a second attack left him feebler, "and with his head symptoms considerably increased, and thenceforth he was unable to engage in any occupation. A third attack after an interval of thirteen months, left him in a condition varying "between partial coma and delirium, though occasionally he would answer coherently;" he had paralysis of the right hand and of both legs.

The next, (137 of Copeman,) a patient aged 76, after the attack, recovered his consciousness, and was not left permanently paralytic; "but out of twenty words which he pronounced, there were eighteen not understood, and the other two were misapplied." "It was reported in Paris," according to Portal, from whom the case is taken, "that he was mad; but I saw it was less a loss of reason than the power of expressing himself."

The next and last of the series, (164 of Copeman,) a lady aged 60, after the fit "was not cured, though she had recovered her senses. She lived some time with a hemiplegia, and without being able to articulate a word."

Such then is every thing that Dr. McCready has taken from Copeman, bearing on the question at issue. And it remains for us to discover by what process of

reasoning he is enabled to show from these facts, that "impairment of mind, as a direct consequence of apoplexy, after the patient has recovered from its primary effects, must be an exceptional occurrence." Dr. McCready may, indeed, wish us to understand that in the patients reported as "recovered," there was a perfect restoration of all the intellectual powers; but those who are accustomed to examine medical reports, will not be ready to accept any such interpretation of the word; which simply leads us to understand that the patients were only so far reinstated as to be no longer under the care of the physician.

Out of 250 cases of reputed apoplexy then, of which 25 must be rejected as dubious, and of which 175 died of the first shock, and of which only 50 are to be accepted as surviving the immediate effects of the attack, it is difficult to see how 34 recoveries justify the remark that impairment of the mental faculties, as a result of apoplexy, is at most an exceptional occurrence; and yet this is the way in which Dr. McCready, by his statistics from Copeman, must have been led to the discovery, that the medical profession of the present day are in error in believing that the direct effect of apoplexy is to impair the intellectual powers.

On reaching this point in his investigations Dr. McCready begins to suspect that "exception may be taken, by some, to the cases from Copeman." Though, he says, "I cannot discover the slightest ground for it." (p. 207.) Most other professional men will see ample ground for it.

His next selections are from Andral; and the results derived from them, he thinks, agree perfectly with those already arrived at, and "give them additional strength and value." Of these selections, consisting of about ten cases from the fifth volume of the *Clinique Medicale*, I need not attempt an analysis.

M. Andral is the best interpreter of his own facts. I have already quoted his words in reference to some of the complications of apoplexy, and to his chapter on the intellectual faculties as affected by this disease (p. 578) I must refer for the full and fair expression of his own views on the subject. The most essential portions of this chapter I shall have occasion elsewhere to introduce as we proceed, leaving it to the common-sense of those interested in the question to discover how far Andral's deductions from his own cases can be made to tally with the "results derived from them" by Dr. McCready.

We next come to the eight or nine cases selected and condensed from the *Anatomie Pathologique* of M. Cruveilheir. We shall have occasion elsewhere to introduce the opinions of this distinguished author, and consequently the individual cases from which these opinions have been derived, we may allow to pass unnoticed, further than to say, that in connection with the question at issue, they are of no importance, and that in his selections from the *Anatomie Pathologique*, as well as from the *Clinique Medicale*, Dr. McCready has given only condensed sketches, some of which are not quite free from bias, and not entirely in unison with the opinions of the authors from whom they are taken, and upon whose authority he seems desirous of reposing. Dr. McCready also quotes from Cruveilheir some passages relating to the post-mortem examination of Dupuytren, but without alluding to the disease of which he died. Why this passage was here introduced it is difficult to understand; since the apoplectic attack with which Dupuytren was taken, November 15th, 1833, (not, as Dr. M. says, in 1834,) was very slight. But it nevertheless disabled him from business, and he was, ever after, an invalid. He spent the following winter in Italy; and his last illness was a chronic pleu-

risy, of which he died on the 8th of February, 1835. The autopsy evinced the traces of the old apoplectic attack; but the burthen of his disease was in the kidneys. From which the modern pathologist will readily trace the starting-point both of the cerebral and the pleuritic maladies. The cavity of the pleura contained more than half a gallon of turbid serum, and the heart was somewhat enlarged; but each kidney contained calcareous deposits, and the right kidney was reduced to a state of putrilage of the consistence and color of the lees of wine, and it was smaller than natural. (*Archives Générales de Medicine, tom. VII., Feb.* 1835, *p.* 281.)

The *new cases*, those which Dr. McCready himself thinks "might be liable to the charge of bias in the interpretation of facts on the part of the observer," come next in order. One or two of these are from his own practice, the others are contributed by his friends. There are some sixteen of them in all, overlooking such of them as are mentioned among the foot-notes. The greater part of them have no direct bearing on the question under consideration; and those which have any relevancy only show, what no one is disposed to deny, that certain individuals, after an attack of apoplexy, may be so far reinstated as to enjoy a moderate degree of intellectual activity.

The cases furnished by Drs. Van Wyck, Post, Parker, Clark, and Whiting, are those upon which he places his main reliance. Of the case of Wilcox, from his own practice, he very justly speaks with some hesitation; and still more so of his other case, that of the patient John White, which he throws behind the shield of a foot-note; for, both of these cases, be it observed, have already been somewhat carefully scrutinized. Dr. M. has himself modified his first impres-

sions about them; and it would not do to speak of either of them with any confidence.

Dr. Van Wyck's patient, his own brother, an assistant-surgeon in the navy, aged forty-two, became apoplectic while at sea in December, 1838; and after the attack, was left hemiplegiac on the right side, speechless, and at the end of six months he became subject to epileptic seizures which recurred at intervals for seven or eight years, and then disappeared. He is still living. "Several years after his attack Edward learned to communicate his ideas, as well by detached words as by reference to the dictionary, and to any newspaper, or, I may say, the word in a book or newspaper that would form the key to it." "Early in 1840 he commenced learning to write with his left hand, at first single words, strangely spelt." * * "After a while, by constant practice, he learned to sign his name, and now his chirography is quite legible." "He can now (June 16th, 1857) glean as rapidly as almost any one the news from the papers, and can sign his name quite legibly, and has, a dozen times, written short, disconnected letters, all with his left hand, which, of course [?] would be unintelligible to almost every one but his intimates. He has, in many instances, communicated his ideas to strangers, so far as to enable them to write to me on matters of business, which they could not have understood, except from himself." But now comes a wonder:—"His family consider him, this day, *more competent* to transact pecuniary business with *care and correctness* than he was prior to his attack." But still we have this wonder with its qualifying clause, "*i. e.*, before, he was careless and unmindful of small sums of money; now, in computing interest, calculating his income, his board bills, travelling expenses, and in purchasing any articles of dress or the like, in discrimination in matter of presents, according to the ne-

cessities of the individuals; in all little matters of every-day business he exercises the closest care and scrutiny. I may say, indeed, that he thinks, reasons, argues, and performs all the offices of an intelligent, intellectual responsible individual, save only that he has a language of his own, made up of words, signs, expressions, and gestures. He manages all his own affairs, only sometimes employing a hand to execute. Indeed, he has certainly managed all his business since 1841, and I believe could have attended to it sooner," &c. But in all this he was exceedingly unlike the gentleman whose case is now in question before the Surrogate, and that is about all that need be said upon it.

The case contributed by Dr. Post comes next on Dr. McCready's order of those in which "there is no evidence whatever that the intellect had been materially weakened." (p. 233.) This patient, a lady aged 40, became paralytic afew days after parturition in the summer of 1832. The paralysis was ushered in, not by apoplexy, but by an attack of puerperal convulsions, with profound coma, which in subsiding left her hemiplegiac on the right side, with partial loss of speech, and for a season, we are not told how long, subject to recurrences of convulsions of an epileptic character. But she soon began to say, "Dear me; I don't know." She is still living. As her condition improved after the attack, she began to ride out. She was allowed to attend church, and occasionally to spend an evening at the house of a friend. Some years after the attack she became a communicant of Dr. Spring's church. She is for the most part cheerful and fond of society; she takes an interest in all the ordinary events which are transpiring around her, and she is neat in her apparel. She neither writes nor uses written nor printed letters or words for communicating her thoughts. "She has occasionally re-

peated a word, after it has been pronounced several times distinctly by one of her friends; but the word thus repeated does not afterwards form a part of her vocabulary; her inability to converse seems to depend on the loss of memory of words, and yet words spoken by others evidently convey to her mind distinct ideas of the things which they represent." Still Dr. Post says, "I do not perceive in her any evidence of mental imbecility," and his reason appears to be that, "although the process of communicating with her is sometimes slow, I have the same conviction that we mutually understand each other, that I would have if she were able to converse in the ordinary way." Now, granting all this, granting even that she had the power of speech to a greater extent, yet we have nothing in this case above the capacity of many an imbecile confined in our public institutions, or under guardians, and deprived of the control of his own affairs. Dr. Post sees no "evidence of imbecility" in this case. It is well to have a proper understanding of terms, let us see what this word imbecility means. Webster (*in verbo*) defines it as follows: "Want of strength, weakness, feebleness of body or of mind," and says, "we speak of imbecility of the body or of the intellect, when either does not possess the vigor that usually belongs to men, and which is necessary to a due performance of its functions. This may be natural or induced by violence or disease." Tried by these terms, I fear Dr. Post's case will be found, though in point of intellect and physical capacity much above Mr. Parish, yet still not above the condition of imbecility.

Dr. McCready's next support is in Dr. Willard Parker's two cases. The first of these, a gentleman, after an attack of hemiplegia and loss of speech in March, 1857, has been so far reinstated that, "his intellect seems entirely unaffected. He perseveres in all his

former tasks, and passes his time as previously, largely in reading and writing." This, of course, is a brilliant case, and its fellow is not far behind it. For in this latter we have no apoplexy at all, but merely the symptoms which are frequently among the precursors of an apoplectic attack; there was, however, a paralytic seizure with confusion of thought and of language. There was dragging of the right foot." "As to speech," after the attack in May, 1856, "he could articulate certain words, but they had little reference to the ideas he wished to express; he seemed to be aware of this, but could not recall the right word. He knew his family and friends, but could call neither his wife nor children by name; his language was confined to monosyllables; he substituted time for distance, as years for miles; the pronouns, he, she, it, he used indiscriminately; a segar, he sometimes asked for a man; at other, by some other word. At our desire, he attempted to write, but was unable; after repeated efforts, he managed to write his own baptismal name, James, but could get no further. He recovered so as to walk and ride out." Dr. Parker says, "his understanding seemed unimpaired," but does not make this certain, and gives no reason to satisfy the dubious.

Dr. McCready's next reliance is on Dr. Clark, whose first contribution includes three cases, the 1st, 3d, and 6th of the series. The first of these was in a consumptive patient, who for an hour or so one night lost the power of articulate speech, and at the same time was slightly delirious, and unable to write. "Seeing that he could not command words, and must fail to communicate his wish in this way, he drew a pencil through what he had written, laid down his paper and pencil, and striking one hand on the other, to imitate the knocking, pointed to the door. His friend understood him and opened it. During the hour he made no other at-

tempt to write, and after that time his speech returned." No apoplexy, no hemiplegia, no epilepsy, the reverie, or delirium of an hour, and that is the whole of it!

The next of Dr. Clark's cases, after recovering from coma, was found paralytic on the right side, and nearly speechless, being able to use but the simple word "same." The patient was an inmate of Bellevue Hospital, and his physician, while reporting the facts, is interested in showing, with Dr. McCready, that apoplexy does not necessarily lead to mental imbecility. "One day commenting upon the case, Dr. C. cautioned the students lest they might confound the loss of speech with the absence of intellect. As a test how thoroughly the man comprehended what was spoken, a number of different instruments, with which he was believed to be unacquainted, had been placed in another apartment, one of them was described, and the patient was directed to select it from the others. He listened attentively to the description, went for and obtained the required instrument, and presented it with his usual 'same, same.'" But the poor idiot had a return of his epileptic convulsions, with increase of his paralytic symptoms, and the case terminated fatally by coma, in this second attack.

The last of Dr. Clark's cases, in the first series, is that of Eliza Jane Pendergast, aged twenty-six years, who, when first admitted into Bellevue, some time about November, 1855, is said to have been "deeply apoplectic, and apparently near her end;" she recovered with hemiplegia of the right side, "and no power to articulate a word." In about a month she could sit up, could indicate her wishes, and understand what was said to her; she was discharged some time afterwards, but was again re-admitted June 6th, 1857; she is now able to "use her right leg a little, but her right arm is still almost completely paralyzed. She can utter no articulate sound. The word 'no' is the only

one she can make intelligible, and this only by accompanying the sound with a negative sign." "Her intellect," says Dr. Clark, "is perfectly clear; she remembers my former care of her, and told me by signs when she saw me first; her memory is clear regarding all events of her sickness, now about twenty months' duration. She has concerted signs, so that, by her fingers and otherwise, she makes those about her understand her meaning. When I did not comprehend her, she would call on the nurse or house-physician to interpret for her. Her countenance is very expressive, though still the muscles of the right side have not the free action of those of the left." "She can read, and says that she could write before her attack." But her first effort at writing under Dr. Clark was a failure. On the 8th of August the experiment was repeated, and after some effort and urging, "she succeeded, in about five minutes, in writing Eliza, but she could not go any further. She would stop after every letter, handing back the pencil in a despairing manner, but, still urged, would renew the effort." "It is a stiff, cramped, and irregular, but legible hand." "The patient is of vivacious temperament, cheerful and hopeful, and devises a hundred gestures and attitudes to express her thought, so as to leave no doubt on the mind of any one who sees her, that her intellect is entirely free from any embarrassment. Her perception is quick, her memory of things entirely unclouded, and her judgment perfectly sound. Yet," Dr. Clark is forced to add, "with all this, it is noticeable that this woman, after a long conversation, will sometimes give wrong answers, which, however, she at once corrects on repeating the questions. This seems to result from fatigue of the attention, which, it is evident, is intensely active in devising substitutes for speech while she converses." (p. 227, 228.)

Here, then, is a patient who has absolutely *no power of articulation;* but who has "*concerted signs*," so that by her fingers and otherwise she can make herself understood; "she is *intensely active in devising substitutes for speech*," and has "*a hundred gestures and attitudes for expressing her thoughts;*" her condition is, therefore, much above that of Mr. Parish. For, though he had considerable power of articulation, yet he could not apply it in speaking. In him the seat of intellectual activity, not merely the motive nerves of the larynx, had given way. But yet this poor woman, notwithstanding the glowing description of her abilities, is not above the condition of imbecility. Her mind is weak, and easily confused, according to Dr. Clark's own showing. But in looking more minutely into his description, we find nothing but generalities, nothing to prove the assertion that "her intellect is entirely free from any embarrassment." And as the concomitants of the case are "*prima facie*" against this view, it was incumbent on Dr. Clark to prove the assertion to the satisfaction of those who take nothing of the sort for granted, until it is logically established. At the time of making out his report of the case, the patient was still under his observation; and if her memory, and power of expression, were so accurate, he should have verified the assertions which he gives on mere supposition. Thus, at the period of her first reception at Bellevue, her condition is drawn only from imperfect recollections; for, says he, "Whether she had convulsions at that time, I cannot distinctly remember." If not, and he had still this intelligent, tenacious, and unclouded intellect before him, he should not have rested in this doubt of an important fact, which the patient herself should have been able to resolve. But this is not the worst of the omissions. This patient is deeply imbued with the venereal dis-

ease; she "bears the marks of an extensive and severe rupia, (the worst form of venereal disease, as it shows itself upon the skin,) and, says Dr. Clark, "some of her physicians have thought that the paralysis might have had its origin in a syphilitic taint;" a very natural thought in them, and very probably a correct one. "But," says Dr. Clark, "as there were no marks of that disease in her system twenty months ago, while in the hospital, there can hardly be a doubt that, if this eruption was specific, it depended on contamination of a later date than the apoplexy." Now, all this is mere assumption; as every one at all acquainted with the history and progress of the venereal disease must very well know. The disease may exist, and often does exist, for years in the system in other forms, before the development of rupia; and the very symptoms under which this woman labored at her first admission, are among those of constitutional syphilis, where it has extended to the bones of the skull, or to the internal envelopes of the brain itself. I have known it to destroy the sight of both eyes, the nerves of taste, smell, and hearing, without involving the brain, or destroying the intellect; the patient being yet able to feel and to speak, although not able to hear his own voice; and receiving communications from without only by concerted signs, devised to reach his understanding through the sense of touch—signs, however, which no imbecile could have interpreted—consisting for the most part in the tracing of letters, with the finger, on the palm of his hand; which, on perceiving, he joined together into words and sentences.

The venereal disease affecting the bones and their envelopes near the base of the skull, even without producing organic changes in the substance of the brain, might have given rise to every symptom in the

case reported by Dr. Clark. Pressure in the trunk of the eight pair of nerves at the point of their departure from the skull, or near that point, resulting from thickening of the surrounding tissues, as occasionally seen in syphilis, might have destroyed completely the power of articulation; but could have left her able to articulate some words and not to articulate others. The hemiplegia under which she also labors, and the early symptoms of coma, which Dr. Clark attributes to apoplexy, and even epileptic seizures in connection with these, might all have originated independent of apoplexy, and been produced independent of primary disease of the brain, or any serious organic change in its structure; and the venereal origin of the whole difficulty is the more probable when we recollect that sanguineous apoplexy, as a spontaneous affection in a patient not over twenty-six years old, is rarely or never witnessed. But coma, convulsions, paralysis and mental imbecility, as the result of syphilis, and of the mercurial treatment often necessary for its cure, are conditions to be looked for at any period of life, and which are not at all rare in the severer and more protracted forms of this disease.

Again, this woman's antecedents and her condition in life, independent of any cerebral disorganization, or permanent impairment of nervous force in the brain, may account in some measure at least for her crabbed and difficult chirography. But be this as it may, the case is imperfectly reported; we receive it from a witness already committed in some degree to the support of Dr. McCready's new views of apoplexy, and his bearing may as readily have led him to over-coloring on the one hand, as it has to errors and omissions on the other.

Thus far, then, for Dr. Clark's report. But ascertaining that the patient was still at Bellevue Hospital,

I took occasion, September 25th, 1857, after making these strictures, to examine the case itself; and from my own inquiries, as well as through those of other gentlemen who have also examined the patient, I am now able to state that the whole of this woman's ailments are of venereal origin. Dr. G. T. Elliott, one of the physicians of the hospital, having the immediate care of the case, recollects distinctly that the marks of the venereal ulcers on her skin were perceptible at the date of her first admission. The patient herself, when questioned, gives us clearly to understand that she contracted the disease from her husband about five years ago; that she had ulcers or sores on the lower part of the body about that period; that some two years ago she began to suffer severe pain in her head, followed by the sudden loss of voice, and by the paralysis of her right side; and that about a year and a half ago, or rather about five months after losing her voice, she had her first convulsion. She states that altogether she has had seven convulsive attacks, the last about three weeks ago. But here her statements become confused. When questioned as to the epoch of these several convulsive attacks, at first she stated that she had two prior to her first admission, one during the period of her first admission, four after she left the hospital, and one since her return. But as this enumeration would have made eight in all, she was again questioned; and now she insists that there were seven fits in all, as before; but she denies that she had had any fit prior to her first admission; and this ultimate statement she persists in. But as there would be but six under these circumstances, and she also insists on seven in all, it is clear that her statement in one way or another is incorrect; and the truth cannot be ascertained from her. I do not find her mind so intensely active as I was led to suppose. Her ideas come to her rather

slowly, sometimes quite so; and she is very easily confused, even when care and patience are taken to bring her thoughts to bear upon the questions. Still she has evidently continuity of thought, and is well aware of the import of what is said to her. She gave me to understand that she is 29 years old; that she was born in the south of Ireland, and that she has been married 13 years; that she sailed for this country from Liverpool; that she has resided in America nine years; that she has two children, the youngest about five years and a half old; that this child has always been healthy; that she contracted the venereal disease from her husband after the birth of that child; that at the period of her first admission into the hospital she had all her senses about her, and could hear, and see, and understand all that was occurring about her; but she cannot now recall any thing from the questions put to her. She gives me to understand that her husband is at present living in the city; that she knows the part of the city in which he resides; but the most carefully devised series of questions that I could invent failed in eliciting from her the street in which he resides. The woman has a strabismus, or squint, in her right eye, which she says has existed since she was five years old, in other respects her health has always been good. Now these various statements may be correct, or they may not; she gives them apparently with as much consistency as might be expected from any other person who has absolutely no voice at all, and who has always occupied an humble sphere in life. But it is sufficiently apparent that the condition which Dr. Clark says existed at the period of her first admission, was not from sanguineous apoplexy; and that her ailments, all along from the onset, have been the direct result of the venereal disease. The worst of these ailments, the loss of voice, the hemiplegia, and the tendency to epilepsy,

still persist, accompanied by an enfeebled condition of the brain, and some confusion of ideas. Her faculties are in process of deterioration; a few more recurrences of the epilepsy will probably finish the work already commenced, and reduce her to a still more deplorable and *unmistakable* state of dementia.

In closing the observations in this case, it is worthy of remark, that another patient who at one time lay in the same ward with her, and was under the immediate inspection of Drs. Clark and McCready, an apoplectic, as is believed, and who had been reduced to a hopeless condition of dementia, has been entirely ignored by these gentlemen. This patient, whose name is Margaret Pierrepont, has since been removed to the Lunatic Asylum on Blackwell's Island, where she is now residing. It appears to me that Drs. McCready and Clark could better have elucidated the condition of mind following an apoplectic attack, by a full account of her case than by several of the reports of cases which they have here presented; some of which are given on very equivocal authority; and one of them, I think, on no medical authority at all. I allude to the case mentioned by Dr. McCready, as that of a near relative, a person whom he has never seen.

We have still to notice the case from Dr. Alexander R. Whiting. This patient was an oddity—a steady hard drinker, aged 48, with an exceedingly violent temper. After a fit of passion he became paralytic on the left side, and could afterwards only articulate the unmeaning word, "Begum, Begum." "Perception and understanding seemed unimpaired." "He gave vent to feelings of anger by violent, sharp repetitions of the word 'begum,' with passionate movements of the right arm and hand, and with all the facial expression of rage. The paroxysms of rage seemed to increase in frequency, 'the ruling passion strong in death.' He did not at any

time give way to tears, as is common with paralytics, but preserved the same dogged pluck with which he had once exchanged six shots in a duel. His anger was particularly excited against his wife, and against a physician who approached his bedside, with whom he had previously had a quarrel. He laughed violently at jests, and seemed indifferent at the announcement of the probably fatal issue of his disease. We endeavored to get him to communicate with us by pencil and slate, but he could not trace the letters, and, after trying, would drop the pencil with a look of sullen disappointment. He died in about three months after the attack, without any change in his symptoms." (p. 229.) Here the right hand was not involved, and yet the patient could not use it for giving expression to thought by written words. A wreck of humanity, with the passions of a bull-dog; as crazy before the paralytic seizure, in all probability, as he assuredly was afterwards.

We have now paid our respects to the whole of Dr. McCready's model cases—those upon which he says, "In *all* the cases that have come to my knowledge, as well those recorded by others, as those that are here given, where hemiplegia, with loss or perversion of the faculty of speech, has been unattended by coma or delirium, there is no evidence whatever that the intellect had been materially weakened; on the contrary, in all the cases recorded by Cruveilhier, Andral, Osborne, Bright [the last two from Copeman], as well as those here given by Drs. Van Wyck, Post, Parker, Clark, Whiting, and myself, there is ample proof that the patients possessed a large and competent share of understanding." (p. 233.) Alas! it is yet too true, that "doctors differ." But fortunately for other men who listen to, and take the trouble to weigh their arguments, there is yet remaining in the world "a large and competent share of" common sense.

We have said all his "model cases." For he does not, as shown above, include among these the case from Dr. Benjamin Ogden, which, out of compliment to this latter gentleman's reputation for sagacity, we should not entirely overlook. The patient was an imbecile, and "the only difference they observed in him since his affliction was, that his temper was more irritable, and that amusement was apt to be expressed by uncontrollable laughter; and distress, by equally uncontrollable bursts of tears."

The other remaining cases of the collection, the 12th, 13th, 14th, 15th, and last, which is not numbered, still require a passing notice. Of these, the 12th, from Dr. McCready's own practice, was a well-built, athletic Irishman, working among liquors, and, when the doctor saw him, evidently suffering from delirium tremens. He was seen by Dr. McCready only about twice. But says the doctor, "I understood that after a number of days he recovered the use of speech, and that a gradual improvement in the paralysis took place." But Dr. McCready has not clearly made out that this patient had ever been really speechless or paralytic.

The 13th is from Dr. B. Duggan, and is just such a case as might have been furnished by the score from the records of any hospital for the reception of surgical patients. A stout, athletic Irishman had been knocked in the head, and could assign no cause for the pain supervening on a broken skull; "but after being questioned, he remembered having got a stroke of a slungshot just fourteen days before the pain began. He died of suppuration of the brain, the marked symptoms, besides the headache, being, a rigor or chill, faltering of speech, convulsions, and towards the close, complete paralysis and coma."

The 14th, 15th, and 16th, are a new series of cases contributed by Dr. Clark. The 14th was the case of a

medical gentleman, with disease in the blood vessels at the base of the brain, which ultimately led to softening near the top of the medulla oblongata, and meningitis, or inflammation of the delicate investments of the brain at this part, and to the effusion of watery fluid in connection with this inflammation. The case went through its progress, to a fatal issue, in six days. We may briefly state of it, that the patient lost the power of utterance a little while before he became totally paralytic, and before "all evidence of intelligence had passed away," and that he continued living in this last condition about twenty-four hours.

The 15th case was in a man aged 55, with a cancerous growth, leading to congestion and partial disorganization, near the base of the brain, towards the left, and rather far forward. His first symptom was a convulsion on the 16th of June, 1857. He from that time broke down rapidly, and died on the 11th of July. The symptoms need not detain us; confusion of speech preceded total obliteration of intellect, and the patient failed to write, while yet he knew what the intention of those around him was, who were urging him to make the attempt.

Dr. Clark's last case is an ordinary instance of epilepsy, lasting for many years, and leading to imbecility at last. The patient, as the disease progressed, became weaker in one side of the body than the other, and had confusion in his speech, "so that many words were wholly lost, and often a succession of them; then nobody can understand him; yet, commonly his nurse can catch his meaning, but often only on repetition." "He is often playful and boyish. He is, however, tenacious of memory in regard to the circumstances of his own ailments, and on other small matters he has still some remaining traces of intelligence." "He does not weep, but he laughs immoderately on every trifling occasion."

"His nurse said, with more physiology in her remark than she supposed, that his laugh ran away with him." "There is something of the emotional element in his breathing while he strives to converse. He takes frequent, and almost convulsive inspirations preparatory to uttering his words, and while speaking." But it is time to take our leave of Dr. McCready's paper. We need say no more of his tilt with the "authorities."

37th.—*Instances of Diseased Brain without Abolition of Intellect Anatomically Explained.*

Passing now from our review of the medical testimony, and of the memorial intended to have a bearing upon it, we may observe, as we have already granted, that there are scattered through the works that treat on morbid anatomy, numerous instances on which organic disease of the brain, to a greater or less extent, is said to have co-existed with apparent soundness of mind. Andral, for example, relates an instance of arrested growth in a man 28 years of age, the result of an injury during infancy, and in which the posterior portion of the right hemisphere of the brain was deficient, the patient being all his life paralytic on the left side, yet with his intellect as that of other men.* Cruveilhier cites a somewhat similar instance of a man aged 42, with incomplete paralysis of the right side, from his tenderest years, with an ordinary amount of intellect; and with arrested development, but without organic lesion in the left hemisphere of the brain.† This same author also cites two other instances in another part of his great work.‡ One of these was a case of abscess in the deep

* Andral's *Clinique Medicale, tome* V. p. 618. Paris, 1834.

† Cruveilhier's *Anatomie Pathologique, livraison VIII., planche V.*, page 1 folio.

‡ Cruveilhier's *Anatomie Pathologique, livraison XXXIII., planche III.*

central portion of the right hemisphere, an acute affection, in which during the progress of the disease, for a part of the time at least, the intellect appeared to be unimpaired, nor was there noted the usually accompanying paralysis; but towards the close of life there was stupor, accompanied with confusion of intellect. The other was a cancerous tumor as large as a hazelnut, growing from the membranes of the brain near the outer limits of the *cerebellum*, and involving the *lateral sinus* on the left side; and in this case the patient, a woman, on the day before her death, was able to relate correctly the particulars of the accident, a fracture of the thigh, from which she had been suffering. Abercrombie quotes from O'Halleram a remarkable instance of extensive injury of the skull from fracture, followed by suppuration, and the discharge of what is presumed to have been portions of the cerebral substance, through the wound, the patient becoming paralytic in the left side on the eighth day after the accident, and dying on the seventeenth; but retaining, as we are told, his faculties to the last, "having been through the whole course of the disease perfectly composed and intelligent, and his pulse quite natural." But here we should add, that "no account is given of the dissection, or of the actual loss of cerebral matter, though the report shows that it might have been considerable."* Cases similar to these, I might relate from personal experience. I am aware at this moment of two cases at least of persons recovering, and enjoying a moderate share of intellect, after a loss of a portion of the cerebral substance from one of the hemispheres; two instances of tumors involving the brain, in which the intellect was sufficient to recognize and de-

* Abercrombie *on Diseases of the Brain*, p. 204. Philadelphia reprint, 1843.

scribe ordinary occurrences, for most of the time, up nearly to the period of dissolution, one in which a pistol-ball entered the forehead and lodged in the brain for nearly 24 hours before the intellect appeared to be seriously disturbed by the injury. And still another of the same sort, in which the ball, having lodged in the internal portion of the base of the skull, had excited inflammation, leading to an abscess, which involved a great portion of one of the hemispheres, and in which, for most of the time, and until within a few days of death, the patient could answer questions intelligently.

But in all these instances, it must be observed, the disturbance in the structure of the brain was confined to a single hemisphere; and in most of them to only a limited portion of that hemisphere; leaving the other parts of the cerebral mass comparatively unaffected, and in a condition sufficiently sound for executing their functions. Now, the reason for all this, we have already stated, and explained; and what we have adduced on the subject from Sir Henry Holland, Dr. Wigan, and Dr. Carpenter, as well as from Todd and Bowman, we need not here repeat. (See pages 241, '2 and 264–'7.)

Again, in carefully analyzing most of the cases of this sort on record, we find that the allusions to the condition of the intellect are merely incidental, and not given with that degree of detail which should be required in order to judge of it correctly. In some of them, the meaning of the term, soundness of mind, as employed by the writers, is, that the patients could give a rational answer to a simple question concerning their health or the circumstances of the case,—in other words, that these persons were neither unconscious, comatose nor delirious; but not by any means intending to show that the individuals thus situated were in

the fair possession of their mental faculties, or mentally competent to transact business. For the very authors from whom these cases have been cited, when treating of the relation subsisting between the state of the mind and the condition of the brain, leave no room for misconstruing their firm belief in the existence of such connection; and almost every page of their writings bearing upon this connection, is in confirmation of the truth of it.

38th.—*Esquirol and Cruveilhier on the Connection between Idiocy and Disease of the Brain.*

M. Esquirol, one of the most profound and reliable investigators of mental maladies, and of their connection with the physical organization, speaking of dementia, or what is usually understood by the terms fatuity or imbecility resulting from disease, says: "The general results of post-mortem investigations upon those who die of dementia, demonstrate a greater variety of cerebral lesions in connection with this, than with any other form of mental alienation."* And M. Cruveilhier, one of the ablest morbid anatomists of the present day, on the same subject, speaks to the following effect:

"Of all the diseases affecting the mind, there is not one upon which pathological anatomy throws greater light than upon idiocy. The brain, that immediate and necessary instrument of the mind in the exercise of the intellectual functions, when arrested in its development, or altered in its structure, leads to a diminution of intellect amounting sometimes to total extinction. Every noticeable diminution in the intellectual faculties, which permanently disables a man from holding his place in the world as a social being, is called," says he, "*idiotism*, or rather *idiotie*, by which is implied inaptitude for the duties of social life

* *Maladies Mentales*, tome 2d, p. 244, Paris, 1838.

(*ΙΔΙΟΣ, solitarius.*) The study of the brain in its relation to idiocy, is intimately associated with some of the gravest questions of psychology, and particularly with that of the intellectual differences between different individuals;—differences not less remarkable, not less numerous, not less appreciable than their respective differences in physical organization. Now, are these intellectual differences associated with corresponding differences in the structure of the brain? Observation enables me to answer this question in the affirmative; and sound metaphysics cannot gainsay the acquisitions of anatomy. Physical truths can never be in opposition to the truths of metaphysics and morality. The physical and organic lesions of the brain, and the whole animal kingdom, are before us, proclaiming the influence of organization upon the intellect." "Having had, during seven or eight years at the lunatic asylum of Limoges, abundant opportunity for the study, I can," says he, "well appreciate the distinction between imbecility and idiocy established by M. Esquirol." But still retaining the common term as applicable to both forms, he speaks of *idiocy* as implying merely the congenital; and of *dementia* as including only the accidental or acquired variety. And of these he says, "The first presents, on post-mortem examination, an incomplete development; or at most, traces of disease that may have occurred before the time of birth. But in the second we find traces of disease more or less severe, that must have originated at a later date." "Of congenital idiocy there may be as many varieties as there are of the organic causes by which they are determined. But the variety of idiocy which is acquired, is the last, the common result, of all the diseases of the brain; hence we have an apoplectic idiocy, an epileptic idiocy, and idiocy following all the other varieties of mental alienation." *

* *Anatomie Pathologique, livraison V., planches IV., V.*, pages 1 & 2.

39th.—*Insanity, in its Statistical Relations to Apoplexy.*

But passing from the anatomical phase of Mr. Parish's case, we have still to examine the various ailments from which he suffered, in their usual relation to the state of the mind, as shown by the records of experience.

"Apoplexy," says M. Esquirol, (*tome* 1*e*, *p.* 74,) "may be often recognized by the ensuing fatuity (demence), which is then accompanied by paralysis." Among the physical causes of mental alienation, according to the same writer, not much less than one-tenth may be ascribed to apoplexy. His statistical exposition of this point is worthy of careful examination, and is as follows:

PHYSICAL CAUSES OF MENTAL ALIENATION, AS SHOWN BY THE CASES AT SALPETRIÈRE AND CHARENTON.*

Hereditary Predisposition,	at Salpetrière,	105,	at Charenton,	150
Convulsions of mother during gestation, ...	"	11	"	4
Epilepsy, ...	"	11	"	2
Disordered Menstruation, .	"	55	"	19
Results of Parturition, . .	"	52	"	21
Change of life, in women, .	"	27	"	11
Progress of Age, ...	"	60	"	4
Exposure to the Sun, . . .	"	12	"	4
Falls, and Blows upon the Head, ...	"	14	"	4
Fevers, ...	"	13	"	12
Syphilis, ...	"	8	"	1
Abuse of Mercury, . . .	"	14	"	18
Intestinal Worms, . . .	"	24	"	4
Apoplexy, ...	"	60	"	10
Total, at each institution,		366		264

* Salpetrière is a public asylum near Paris, devoted exclusively to females; Charenton, also in the vicinity of Paris, a private institution, then under the care of M. Esquirol, and open to both sexes.

In treating of impairment of intellect after apoplexy, M. Andral (*tome* vi., *p.* 381,) speaks as follows:

"After the escape of blood has been arrested, the lethargy [coma] may continue; the patient does not regain his consciousness; and, in this case, death speedily ensues. In cases more fortunate, and which are far from being rare, the state of coma may disappear, but on coming to himself, his intellect, at first, is apt to remain disturbed as before. In a very small proportion of cases, it is perfectly restored; most frequently it remains feeble; the patient retains sufficient intelligence for attending to the occupations of common life; but he is incapable of meditation, or of intellectual labor in the least degree prolonged; he cannot, without fatigue, attend to conversation any way protracted or serious, and it is necessary to guard him against it, in order to prevent an aggravation of his symptoms." "But instead of this simple enfeeblement, the intellect may be still more gravely injured. Thus, a certain proportion of apoplectics fall into a state of childishness, or into the imbecility of old age; they are particularly inclined to weep with singular readiness. Others of them are, from time to time, seized with delirium, such as often occurs in acute inflammation of the lining membranes of the brain; and, in fact, there is reason to believe that this delirium is caused by the periodical occurrence of irritation in the arachnoid membrane which invests the diseased hemisphere. In other cases, again, the mental alienation declares itself as the direct result of the escape of blood upon the brain." He goes on to show the connection between apoplexy and loss of speech.

40th.—*Loss of Speech in its Relations to Apoplexy.*

"Another symptom occasionally observed to result from the effusion of blood in the brain, is the loss of speech. This may coexist with integrity of intellect.

Sometimes this accidental muteism disappears promptly, sometimes the speech is restored after a very long period, and sometimes the loss is permanent."

In reference to M. Bouilland's hypothesis as to the seat of lesion in the brain, where the loss of speech is a prominent symptom,* he says, (*vol.* v. *p.* 382.) "In thirty-seven cases observed by myself or others, relative to hemorrhage or other lesions in one or both of the anterior lobes of the brain, there was loss of speech in twenty-one instances, and no such loss in sixteen instances." "On the other hand, we have collected fourteen cases, in which there was abolition of speech without any alteration whatever in the anterior lobes. Of these fourteen cases, seven were affected with disease in the middle, and seven with disease in the posterior lobes."

41st.—*Loss of Speech as Connected with Disorders in the Mental Faculties.*

Loss of speech, then, partial or complete, is not an unusual attendant upon apoplexy; or the condition of the brain that gives use to, or follows apoplexy; and its relations to the mind are the same as those of apoplexy, the brain being an essential organ as well for the development, as for the verbal expression, of our thoughts. But on this point we must again turn to M. Cruveilhier, who, in allusion to the loss of speech as depending on the condition of the brain, says:—

"The faculty of articulate speech has no special seat within the brain, and ceases wherever there exists

* M. Bouilland, from some facts observed by himself and others, supposed that the lesion of the brain associated with loss of speech, had its seat always in the anterior lobes of the brain, an opinion abundantly disproved by Cruveilhier, Andral, and others.

any extensive destruction of the cerebral mass, whether in the optic thalamus, the corpus striatum, the tuber annulare, or the medullary centre of either hemisphere." He goes on to describe the different causes and varieties.

The Varieties of Loss of Speech, and of Aphonia, Illustrated and Explained, in their Relation to the Case of Mr. Parish.—"The loss of speech, as I have elsewhere stated," says he, "may depend upon three causes: 1st, loss of the memory of things; 2d, loss of the memory of words; 3d, the want of power of articulation. The frequency of the loss of memory of things," he continues," has been singularly exaggerated, because it has almost always been confounded with the other two. Nevertheless, there is nothing more easily recognized; for in connection with this loss of the memory of things, the patient is in the most complete state of idiotism. Falls upon the head—certain attacks of apoplexy, and malignant fevers, determine this form of amnesia; which is sometimes partial; sometimes general; sometimes temporary; and at other times permanent.

"The loss of verbal memory coinciding with integrity of the intellectual faculties, is much less frequent. Words, the representative signs of our ideas, are so associated with them, that it is extremely rare, as Condillac has proved, for the absence of words not also to denote the absence of ideas. Nevertheless, as this association is purely conventional and the result of habit, we may readily conceive, what experience has amply shown, that the sign for the idea may, under some circumstances, be lost. Hence it is, that our records are full of examples of individuals who appear to be in possession of all their intellect, although they may have forgotten certain words of their language, as substantives, proper names, or adjectives, or even almost every word."

" Finally, the loss of speech may exist:—1st, without disturbance in the memory of things, the patient being in the full enjoyment of his intellect; 2dly, without disturbance in the memory of words, since he can write with as much facility as when in perfect health; and what is remarkable, he can exercise all the movements of the tongue with great agility, though unable to articulate sounds. Interrogate him, and the expression of his face declares at once, that he understands you perfectly; a thousand ideas appear to take possession of him; in order to reply to you, he resorts to the most remarkable efforts; he commences a word, turns it in a thousand ways, and almost always wrong; he manifests his exultation in mastering a single word, he is in despair on finding his efforts useless; and most frequently his articulate language is reduced to three or four exclamations, or insignificant words, or monosyllables. One might be tempted to believe that this defect of articulation was always owing to the loss of the memory of words; for the patients often articulate very distinctly the small number of words of which they retain the recollection, although the articulation of these words may be extremely difficult. But the proof that the memory of words is not lost, and that the faculty of articulating sounds only is wanting, is, that the patients give their sign of approbation whenever they hear the word pronounced which they themselves are unable to utter; gestures of approbation or the reverse, follow the success, or want of success, in our efforts to enter into their ideas; and they give expression to joy, or grief, or wrath, in listening to discourse calculated to excite these emotions. The difficulty of controlling the movements necessary for the articulation of sounds is such, that oftentimes many days are necessary for them to seize a single word. A hemiplegiac female, he relates, " who was thus situated, had

completely lost the faculty of pronouncing her own name and that also of her husband. By perseverance she afterwards re-acquired the power of expressing these. Sometimes she would speak the word very well; at other times she would fail to seize it; and growing impatient she would vigorously agitate her sound arm, and pronounce the word *sacristie*, which was her usual exclamation; but when any one spake to her the first syllable of her own name, or that of her husband, she could finish the word; and would manifest great joy in being able to accomplish it. She was also taught to say, *Bonjour*, *Monsieur*, which she did to her own great enjoyment, when, in the attempt, her memory did not play false to her; which often happened."*

The want of logical accuracy in the statement of some of these alleged cases of loss of speech, as M. Cruveilhier has intimated, is not to be overlooked. Some of them are loosely related, some are given on hearsay authority, and have never been properly tested, at least, in such a way as to render them worthy of implicit reliance. We must also remember how readily the expressions, soundness of intellect, integrity of intellect, and the like, are employed not to convey the idea of the unembarrassed use of the mental faculties, but simply that the individual has so much intelligence as to know what is going on about him, and to be able to give a rational answer; in short, that he is not crazed, nor stupid, nor unconscious. The feeblest degree of intelligence may in this way be taken for soundness of mind, or at least may inadvertently be said to be such, by those who are not guarded in qualifying their expressions. A man in the last stages of prostration from disease, may forget a whole language, or at least cease to use a

* Cruveilhier, *Anatomie Patholgique*, Livraison XXXIII., Planche II., pages 3, 4.

whole language, which he had acquired after arriving at the age of manhood; but he rarely, under these circumstances, fails to revert to his mother tongue. Of his mother tongue, too, he may forget rare and unusual words; or he may, by wrong association, or from want of association, forget a familiar word or a series of words. But to forget the whole vocabulary of his language, implies a defect of memory that must be associated with forgetfulness of other things than words. The disturbed association of ideas, in fever, I have on several occasions known to cause a temporary loss of one's own language and the employment of the words of a foreign tongue, or to the mixing up indiscriminately of phrases of different languages. A German gentleman was lately under my care for a bilious fever, contracted in crossing the isthmus of Panama. During his illness he ceased not only to speak English, which he knew very well, but also ceased to speak in German, never saying in his own language more than "Och Gott, mein kind." But he was continually exclaiming a series of phrases, which those about him could not interpret until his brother observed that they were words in modern Greek, a language which he also understood; and the words employed were such as he had, years past, been in the habit of addressing to his little son.

In what M. Cruveilhier states, he has reference only to loss of speech in connection with diseases or organic disturbances, within the skull. He makes no allusion in the passages which we have borrowed from him, to loss of speech from mechanical obstruction or local diseases within the air passages, or in the organs of respiration. Nor does he allude to such as depend merely on injury or loss of function in the laryngeal nerves, by which the small muscles at the top of the larynx, which open and contract it for modulating the sounds of the voice, are supplied with motive power. Instances of

loss of function in these nerves are now and then seen in hysterical females. In these the abolition of function, and consequent loss of voice, are almost always temporary; the affection being simply a manifestation of hysteria. Permanent loss of voice in males from disease or loss of function in the nerves in question, is extremely rare; but I remember to have witnessed one example of it in a young seaman of lively intellect, and who was otherwise in perfect health. In his case the loss of voice, I think, was after injury by lightning; and so complete was this loss, that he could not give utterance to any sound, even as loud as a whisper. But he carried his slate and pencil with him constantly, and was a young man of more than usual intelligence for his class. To cases such as this Mr. Parish's case holds not the most remote analogy. And in the present connection we may take it for granted, as already admitted by Dr. Delafield, that the loss of speech in Mr. Parish immediately depended upon the primary lesion on the cerebral substance, and that it is to be reduced to one or the other of the three categories laid down by M. Cruveilhier.

Now, in which of these three categories are we to place the case of Mr. Parish? Surely not in either of the last two; for, with the loss of speech, he had also lost the power of giving expression to thought by written language, or by any artificial contrivance of his own, and while he had the power of enunciating many sounds, including such as are represented by *a*, *e*, *i*, *o*, among the vowels by the aspirate *h*, and by several other consonant letters, dental, labial and nasal, he was still unable to continue these sounds in such a way as to speak a single word, not even a monosyllable distinctly, or give utterance to any sounds expressive of the simplest train of ideas. He was not then simply a mute from want of power of utterance, but from want of intellectual power sufficient to give

direction to the simplest thought by the use of words: the organs of speech, however, being at the same time imperfect from the loss of nervous power; yet not so imperfect but that with a directing intellect, they might have been called into useful action.

42d.—*Hemiplegia in its Statistical Relations to Insanity.*

But Mr. Parish, besides being apoplectic and deprived of speech, was also hemiplegiac. And we are next called upon to examine the relation subsisting between the conditions of the mind and paralysis. "Of apoplexy," says Sir Henry Halford, "I shall say but little, because before the blow be struck, the patient may have been merely torpid and indifferent to scenes of whatever interest in which he has lived." * * "But the sequel of apoplexy is palsy, and when that has supervened, and the frame has been dismembered, then, indeed, happy is the patient whose mind shall have been disciplined when in health, and whose habits shall have been well regulated by reason and by good principles before he was taken ill; for otherwise, as all the passions are let loose by the malady (as is the case in many instances, at least, in this disease,) whilst the controlling power is enfeebled, an irritability succeeds which makes life intolerable to the sick man himself, and to all around him. The tenderest offices administered with the most prudent attention and care, fail to conciliate; and he indulges his anger, and dissolves into tears alternately alike without reason, until at length, another apoplectic blow deprives him of life. By this distemper the great talents of Marlborough were confounded in the latter years of his life, and his powerful mind impaired. By this, also, was extinguished the spirit of the celebrated Dean Swift.

"From Marlbro's eyes the tears of dotage flow,
And Swift expires a driveller and a show."*

That deplorable and always incurable form of paralysis, known of late years as the paralysis of the insane, and which M. Esquirol was among the first carefully to delineate,† we need not here allude to further than to say that it pervades both mind and body, seizing on both alike, and always proceeding from bad to worse, until life itself is at last extinguished. But, in connection with Mr. Parish's case, let us look at the less aggravated forms of the disease, as we find them spoken of in connection with dementia, or accidental imbecility.

"Paralysis," says M. Esquirol, "is more frequent among men than women under mental alienation. Some eighteen years ago, while on duty among the alienated at Bicêtre, during the absence of M. Pariset, who had been sent to Cadiz to study the yellow fever, I was struck with the difference in comparing the number of men alienated and paralytic, at the hospital of Bicêtre, with the number of paralyzed women at Salpêtrière. The same observation may be authenticated at the institutions on which the alienated of both sexes are admitted. It has not escaped M. Foville of the institution of Saint-Yon, at Rouen, where, according to that physician, this complication is noticed in about an eleventh of the patients. Among 334 cases of mental alienation recorded by him 31 were paralytic; 22 men and 9 women." "At Charenton," continues Esquirol, "the proportion of paralytics is besides very considerable, amounting to one-sixth of the whole admissions; in fact, out of 619 alienated patients admitted here during the years 1826, 1827, and 1828, 109 were

* See *Essay* V. *On the Influence of the Diseases of the Body on the Mind*, in "*Essays and Orations*," by Sir Henry Halford, Bart., M. D. Second Edition, Lond. 1833.

† Tome 2d, p. 264.

paralytics, and the proportion of men is enormous in comparison with that of women; of 366 men among the alienated admitted into this institution, 95 were paralytic; and of 153 females, only 14 were affected with paralysis."* We need not follow him in his reasoning for explaining this difference in the complications between the two sexes. He goes on to say—and the passage is not inapplicable to our present investigation —that "paralysis complicates all kinds of mental alienation, whatever be the form of the delirium; it complicates mania, melancholia, as well as ambitious monomania, more frequent, indeed, in the last, and it is almost always a complication of dementia."† Dr. Copeland, in his chapter on the Connection of Palsy and Apoplexy with Insanity, says, "Palsy is not infrequently also associated with idiocy and with puerile imbecility." "When this affection occurs in the aged, it may be connected with atrophy of a lobe or portion of the brain, consequent upon antecedent disease." Speaking of the paralysis of the insane, he says, "This form of paralysis is often indicative of chronic inflammation of the meninges, and is distinct from the paralytic affections consequent upon cerebral hemorrhage, or upon softening, tumors, &c., of the brain, which, however, may also be complicated with insanity, although much more rarely than the general form of the affection above described. Whatever form the mental disorder may have presented, it soon passes into chronic dementia, when complicated with paralysis." ‡

* *Maladies Mentales*, tome ii. p. 271–2. † P. 276.

‡ Copeland *on the Causes, Nature, and Treatment of Palsy and Apoplexy*, p. 147–150.

43d.—*Epilepsy in its Statistical Relations to Insanity.*

Again, Mr. Parish was not only apoplectic, deprived of speech, and paralytic; he was also, for nearly seven years, subject to occasional, and during a great part of the period, to very frequent attacks of epilepsy. I use the term deliberately, for there is no other word to convey the idea of convulsions of the whole body accompanied with frothing at the mouth, loss of consciousness, and subsequent stupor or somnolency, occurring in an adult male, and recurring at frequent intervals for several successive years.

Epilepsy, or periodically recurring convulsions, whether arising from disease of the brain or not, usually tends more and more to impair the structure and functions of the brain, and to diminish, pervert, or destroy the intellectual and moral faculties; leading to idiocy in its various modifications of imbecility or fatuity; to mania, or other conditions in which the mind of the sufferer is hopelessly disordered; to unevenness of temper, and to occasional paroxysmal attacks of excitement, which might be attributed to passion, were they not more properly depending on causes wholly beyond the control of the sufferer. Every asylum for the insane can furnish evidence of the truth of this statement, and the more readily, from instances in which epilepsy and paralysis are united. Cook, in allusion to epilepsy, says, "After frequent attacks, it sometimes ends in apoplexy, sometimes in paralytic affections, particularly of the nerves necessary to hearing and vision; but its common termination is in idiotism or fatuity. The faculties of the mind, especially the judgment, the memory, and the imagination, gradually fail, and a total imbecility supervenes. Innumerable instances of this kind might be quoted from Van Swieten, Tissot, and others."*

* Cook *on Nervous Diseases.* London, 1823. Appendix to Vol II. .p 23.

"Epilepsy, the seat of which is in the head," to use the words of one of our most sagacious observers, "seldom continues for any length of time without destroying the natural tone and soundness of the mind, rendering the patient listless and forgetful, indisposed and unable to think for himself, yielding without any will of his own to every external influence, and finally sinking into hopeless fatuity, or becoming incurably mad." *

"Epilepsy," says Esquirol, "leads sooner or later to mental alienation, whether in infancy, or in more advanced life. Among the 300 epileptics inhabiting Salpêtrière, more than one-half are deranged; it is the same at Bicêtre and Charenton, some of them being idiotic or imbecile, some demented, and others maniacal, even furious. The fury of epileptics has a trait of ferocity which nothing can overcome, and it is this which renders them so much the subjects of alarm in every asylum." † Again, says the same writer, "Epilepsy is not only a disease fearful by the violence of its symptoms, and hopeless by its persistent incurability. It is also disastrous by its effects upon both the physical and mental organization of those affected by it." And again, Mr. Esquirol tells us‡ that he has collected with the greatest care the history of the women occupying the epileptic department of Salpêtrière, to the number of 385. Of this number, 46 were cases of hysteria, so that he had only to account for 339 epileptics.

Of these, twelve were monomaniacs; thirty were maniacs, among whom were some predisposed to suicide, and who had made several attempts to destroy themselves; thirty-four were furiously maniacal, and

* Ray's *Medical Jurisprudence of Insanity*, p. 121. Boston, 1838.

† *Loco Citat.* tom. i. p. 74.

‡ Tom. i. p. 282.

in three of these the fury was observable only after the epileptic seizures; one hundred and forty-five were demented, among whom sixteen were constantly so, the others only so after the epileptic seizure, and two of these were subject to furious paroxysms; eight were idiotic, among whom one had been epileptic only seven or eight months, and had only had five paroxysms; fifty were habitually rational, but characterized more or less frequently by absence of memory, or by exaltation of ideas; some of them were subject to temporary delirium, and all of them had a tendency to dementia; sixty had no aberration of intellect, but with great susceptibility towards it: irascible, obstinate, difficult to manage, capricious, whimsical—all with some singularity of character. Thus 269 [279] out of our 339 epileptics, that is to say, about three-fourths, were more or less deranged; one-fifth only of them retained their reason, and such reason!"*

44th.—*Mr. Parish could not use, and could not be taught the use of, Artificial Signs for the Expression of Thought; and the Inferences from this, in reference to his Mental Faculties.*

But Mr. Parish was not merely apoplectic, speechless, paralytic, and epileptic; he was incapable of giving expression, and could not be taught to give expression, to the simplest thought, by artificial signs.

That apoplectics may be competent to exercise a fair amount of intellect—or that, to all appearance, they may in rare instances regain the full and free use of their mental powers—need not be called in question. Aphonia alone, epilepsy alone, hemiplegia alone, is not necessarily associated with mental incompetency. But

* *Esquirol*, tome i., p. 284.

we would hardly look for this in the combination of all these several forms of bodily derangement in the same individual; and when to all of them we have to associate the trait of Mr. Parish's case which we have now under consideration, we are no longer able to resist the conviction that the mental functions of the individual thus disabled, were also deeply implicated.

The paralytic affection in Mr. Parish, as we have seen, involved merely the right half of his body and limbs. He could even make some use of his right leg, and he had still control over, and enjoyed a fair amount of muscular strength in, his left arm and hand, as well as in his left leg; his vision was sufficient to enable him to see letters and figures in print, and to point to small objects, as straws and crumbs upon the floor; nor were his other organs of external sense, as far as can be discovered, in any degree impaired. Now, were the mind under these circumstances also uninvolved, the individual, even without the use of his natural voice, would have still the power to communicate his ideas, clearly and distinctly, to other persons, not merely by natural gesticulations, but by artificial signs, by devices of his own, or by such as might be taught to him. Mr. Parish had not this power, and he could not be taught to acquire it. His mere expression of assent or dissent, of inquiry, as it is called; the ejaculatory and instructive cries of opposition or of pain; his power of attending in some degree to the ordinary transactions under the immediate cognizance of his senses, if such power indeed existed; and his responsive look to those who were addressing him, are, collectively, but feeble indications of intellect, and, of themselves, altogether insufficient to establish the existence of a mental capacity above that of some of our domestic animals. Powers such as these, and even some of the higher traits—memory, affection, sorrow,

regret, habits of propriety, and sense of modesty—may be exercised not only by the imbecile incapable of mental development, but also by the confirmed idiot; and most of them, if not all of them, by certain of the brute animals.

Cases of hemiplegia, cases of aphonia in the enjoyment of a fair amount of intellect, are too familiar to call for illustration. Even those that are born deaf-mute and blind, or who have been reduced to this condition in infancy or early life, where the brain is still intact, are capable of great intellectual development; so as to be able to comprehend moral and intellectual truths, the truths of history, of philosophy, of science, of religion; and, in proportion to the loss of one or more of the external senses, their remaining inlets for the acquisition of knowledge will be strengthened; and so also of the use of the limbs, the organs of external action and locomotion. I recently witnessed an exhibition at the new institution of the Deaf and Dumb Asylum at Fainwood, near this city, in which a young gentleman, one of the inmates, a deaf-mute, exhibited in dumb-show every thought and sentiment in Dr. Oliver Wendel Holmes's ballad of the Oysterman. Not by the mere use of the finger alphabet, not word for word, as in writing; but by those natural signs which are perfectly intelligible to all persons, without the use of language.

I have been told by the superintendent of the Institution for the Blind in this city, himself a blind man, that the loss of sight adds immeasurably to the faculty of hearing and of touch. By his own feelings, as well as by the sound of his voice, he can tell whether a door at the remote end of his large lecture-room is open or shut. The delicate perception of the fingers of the blind, playing along their embossed reading-books, is almost beyond belief. I have seen and heard them

reading from these prints, detached passages marked for them at random, as fluently and with as much appropriate emphasis as the best of our public readers are able to do even with the use of their eyes.

The staff in the hands of the blind man becomes an organ of perception as delicate as the tentaculæ of the lower animals. Dr. Carpenter speaks of an acquaintance, a blind gentleman, who could guide himself about, by the aid of a staff, with great facility; and who stated that his skill in so doing depended much on the flexibility, elasticity, and other properties of the staff; so that when he chanced to lose or break one to which he had become accustomed, it required a long time for him to obtain another that would suit him as well.* Saunders, the blind professor of mathematics at the University of Cambridge, was a connoisseur in medals, and could readily distinguish a true from a spurious medal, by the sense of touch. The works on physiology furnish innumerable examples of the same sort, showing the vicarious actions of one sense in supplying the losses of another.†

Julia Brace, of the Hartford Asylum, deaf, dumb, and blind, from early infancy, if not from birth, could distinguish through the sense of smell the various individuals of the institution, and even select their clothing in the wash. Laura Bridgeman, also deaf, dumb, and blind, is another instance, as reported by Mr. Howe, of Boston, equally remarkable as the foregoing, and more familiarly known. The case of James Edward Meystre, of Switzerland, reported by his teacher, M. Hizel, and made known to the American public by Mr. Lewis Peet, of the Deaf and Dumb Asylum at Fainwood, near this city, is still more worthy of

* *Comparative Physiology*, p. 1053. Philadelphia reprint, 1851.

† See among the rest Carpenter's *Human Physiology*, p. 246, &c.; p. 252, &c. London, 1842.

attention. This youth, though deaf, dumb, and blind, from his tenderest years, was taught not only to know all that was taking place around him, to understand complex intellectual and moral truths, and to write and speak with his fingers; but he was actually taught to enunciate words intelligibly, and to hold discourse by means of his newly acquired language; though still unable to hear the sound of his own voice.*

The power of the mind in substituting the use of one organ for another, is equally well shown in studying the uses of the limbs. Not a dozen years since, a middle-aged man was exhibiting himself in this city, under the assumed name of the "Gnome Fly," who, with merely the rudiments of legs and feet, not of the length of one's hand, was obliged to do much of his locomotion by means of his arms and hands; and who, by means of wires, or ropes, could spring along the ceiling or walls of the theatre with as much agility as a fly might be supposed to do. At an earlier period, it is still within my own recollection, that another person, a female, was exhibiting herself at Scudder's Museum in this city, who, from never having had either arms or hands, had learned to make her toes supply the use of fingers, and by means of her toes could execute many of the delicate and minute performances that other persons accomplish with their fingers.

The Rev. Dr. Brownlee, quite as far advanced in life as Mr. Parish, after a sudden attack of apoplexy, even more severe than his, and followed as in his case by permanent paralysis of the whole of the right side, though for a season deprived of intellect, and for a still longer period without the use of speech, ultimately regained to a considerable extent his intellectual powers; and with the restoration of mind, came the desire of

* Proceedings of the Second Convention of American Instructors of the Deaf and Dumb, p. 169, &c. Hartford, 1851.

expression by writing. He at once resorted to pen, ink and paper, with his left hand, and his autographic signatures, as well as the specimen of his composition, which constitute portions of the exhibits in the printed evidence taken before the Surrogate, (see Vol. III. exhibits 252, 253, 268,) show that when the mind is not wholly overpowered, even where palsey supervenes late in life, the bodily organs will be made to administer to its wishes. Other instances of the same sort are also given in the evidence, and illustrated in the series of exhibits in the third volume of the case containing the printed minutes of the Surrogate. Many of the cases, too, collected by Dr. Benj. W. McCready, to bear upon that of Mr. Parish, and published in the N. Y. Journal of Medicine for September, 1857, are illustrative of this point.

From facts like these we know, then, that wherever intellect exists, it will find the means of expression, whether in the young or old; and it would be difficult, I believe impossible, to produce an instance to the contrary, in any case where, as in that of Mr. Parish, the patient still retained considerable voluntary control over the muscles of half the body; and where the paralysis was co-existent with vigorous digestion and good appetite, for several successive years.

45th.—*Conclusion in reference to Mr. Parish's Intellectual Powers.*

Granting, then, for the sake of argument, and notwithstanding what has been already shown, that a fair amount of intellect, or a disposing memory, is compatible with hemiplegia, loss of speech, impairment of vision, frequently recurring convulsions, perversion of the natural temper and disposition, paroxysmal excita-

bility, blunted sense of modesty, and loss of control over the natural evacuations, all in the same individual, —yet in no case would I hold it compatible with inability to give expression, by some means or other, to a continuous train of thought, through such organs as in this instance were still under the control of the will. And when it is proved or conceded that such organs, after various attempts at tutoring them, and under the pressure of continuous necessity for exerting them, have failed, through a period of nearly seven years, to respond clearly, unmistakably, and intelligibly, to the demands which the mind, if it had any tolerable degree of power, would most assuredly make, the evidence of mental incapacity becomes irresistible. The mind, with any degree of vigor, even fragmentary vigor, yet remaining, will find expression for its wants, beyond such as spring merely from its physical necessities. Where one series of organs fail to meet its wishes, it will employ others in their stead, and where the natural means of expression fail, it will resort in course of time to such as are artificial.

That Mr. Parish, then, during the many years of his bodily affliction, was never known to put together two consecutive ideas, or to give expression by sound or sign to any continuous train of thought, or for any purpose much beyond the gratification of his own immediate wants,—is itself a circumstance sufficient to show, that he had no such scope of thought to communicate; and hence, that while his instinctive and simply animal functions and propensities still endured, and he still enjoyed considerable power over the left half of his body, and perhaps some confused notion of his former mercantile and business habits, yet his intellect was profoundly and irrecoverably damaged; and to such an extent that for all the proper uses of a disposing memory, for all the purposes of abstract reflection, fore-

cast, meditation, minute perception, or accurate details of any sort,—and above all, for the purpose of executing any legal document, as for instance a will, or codicil to a will,—it may be said to have been utterly annihilated.

46th.—*Summary View of the Facts and Principles in Anatomy and Pathology bearing on the Case.*

Now to sum up the whole matter of this medical investigation, it may be presented in a few general propositions:

1st. The ailment of Mr. Parish was originally an organic disease of the brain, the nature and extent of which might have been determined by a post-mortem examination.

2d. The condition of the mind, the imbecility or dementia, as well as the bodily infirmities of Mr. Parish, was the direct effect of morbid changes in the structure of the brain; and was as irremediable and permanent as the disorder in the brain which gave rise to it.

3d. There are organic diseases of the brain so slight, so limited in extent, or so situated, as only very partially to impair the intellectual powers or moral propensities; but very few, if any, such cerebral changes ever occur, without some mental impairment.

4th. The amount of disease sufficient to disturb the intellect and produce violent lunacy, with perversion of ideas and perception, is *much less* than is necessary to cause fatuity or idiocy, or some of the milder forms of imbecility. For, the latter diseases imply a permanent prostration in the functions of the brain, and corresponding change in structure; the former disease may be from mere temporary disturbance, where the structure of the organ is not very per-

ceptibly at fault. But in becoming chronic, lunacy degenerates into dementia, and with this come also the organic changes, which are almost invariably demonstrable after death. So that in mental alienation lasting for any length of time, changes in the structure of the brain may be taken as the general rule, and normal appearances the exception.

5th. But where such exceptional cases do occur, they are usually explicable on due attention to the attending circumstances; and are attributable either to our imperfect modes of examining the brain, to our yet imperfect knowledge of the anatomy of the brain, in its relation to the particular functions of the mind and body, or to the fact that the disturbance has originated from vitiations of the blood, depending on primary disease in other organs; or from an enfeebled circulation, the result of other concomitant diseases; or from sympathetic disturbance of the brain in connection with disease in other parts of the body.

6th. It must be accepted as a law of our organization, that the brain, and particularly the cortical, cineritious or gray granular structure, constituting the superficial portion of the cerebral hemispheres, administers to the intellect, and is the proper organ of the mind; this upper portion of the organ, however, acts not to the exclusion of its other parts; and when the brain, or any of its parts, suffers from diseased action, the mental operations must in some corresponding degree be perverted or impaired—in the same way that sight is impaired by disturbance in the organ of vision, or hearing by disturbance in the structure of the ear, or locomotion by organic disorder among the nerves and muscles going to supply the limbs. In a word, the organ being injured, the functions that are performed by that organ are necessarily implicated.

7th. A set of symptoms pointing irresistibly to

impairment of function in any organ, will find explanation by an examination of that organ, provided the examination be thorough and complete, and the structure, function, and organic relation of that organ, be sufficiently well understood by the examining physicians.

8th. Now, though we are not yet sufficiently well acquainted with all the minuter functions of the brain, with its minute anatomy, or with the special relation of its particular parts to particular functions of the mind or body, yet post-mortem examination of this organ is of the greatest importance to us in our search for light upon the history of mental diseases, and often furnishes the evidence of what we had reason to expect as existing there, from the symptoms of disease manifested during life.

9th. There are particular phases of mental disturbance, which we usually find associated with particular impairments within the skull. Thus:

a. Diseased action on the upper surface of the hemispheres, whether in the membranes investing the brain, or in the cortical granular substance, where the impairment has not led to actual disorganization, is apt to be associated with delirium, but not with fatuity.

b. Where the disease in this part of the brain has led to effusions that press upon the hemisphere, and this pressure has come on very gradually, there may be no very well marked evidence of its existence, or of its effects upon the intellectual operations, until the pressure has seriously interfered with the circulation, or otherwise interrupted the organic action of the part; and then there will be paralysis of the voluntary muscles in some corresponding portion of the body, and almost always on the side of the body opposite that of the affected portion of the brain.

c. Where pressure on the same portion of the brain, or actual disorganization here, has been produced, not

gradually, but suddenly, the paralysis will be the more clearly marked from the onset, and the mental operations much more suddenly and seriously implicated.

d. Yet the paralysis, even under these circumstances, may exist without confusion or obliteration, though hardly without impairment of intellectual power. For though the part which is injured no longer performs its accustomed functions, yet the part corresponding to it in the symmetrical arrangement on the opposite side of the brain, may still remain sound, and the functions of this part, corresponding with those of the part that is injured, still go on; so that the mind still appears active and in its natural estate, in the same way that one eye sees while the other is blind, or one ear hears while the other is deaf, or one arm moves while the other is palsied.

e. The brain is a double organ, its two lateral hemispheres, and all its ganglia being symmetrical or nearly so, the one side being intended to co-operate with and assist the other, and temporarily to supply its place during accident, or in the progress of disease, the right acting alone while the left is disordered, and the left acting alone while the right is disordered. But while both parts co-operate in executing the intellectual functions, each part has its own particular half of the body to supply with voluntary and sentient power, with feeling and locomotion. Hence the mind may be, to all appearances, performing its functions naturally, through the agency of a single hemisphere alone, whilst the other half is more or less disorganized, and the muscles which are supplied by this other half are hopelessly paralytic.

f. But when this upper superficial portion of the brain is affected on both sides simultaneously, or where the organic disease on one side leads to sympathetic disturbance in the other, then we must expect disturb-

ance in the intellectual functions, or moral propensities, or both; and when associated with any very appreciable degree of disorganization, with paralysis also. No man can have organic disease in both hemispheres of the brain, and be at the time capable of the unembarrassed exercise of his intellect. No brain can be extensively diseased on both sides of the medium plane, without impairment of mind sufficient to be at once recognizable by the medical observer.

g. But where the lesion or disease is at the base of the brain, the portions that are more immediately connected with the external organs of sense are the most apt to suffer; and instead of delirium, or paralysis of muscular power, and loss of voluntary control of the limbs, we usually find that coma, stupor, or profound insensibility, give character to the accidents. So much is this the case, that surgeons can usually determine with tolerable accuracy, whether the force of an injury to the head has been spent on the base, or other portions of the skull. And the indications which they derive from the symptoms enable them to determine where to apply the trephine for the evacuation of blood or other fluids, after injuries, and in what cases the application of the trephine would be useless.

h. In idiocy, or that form of imbecility which is congenital, the brain is not found to be developed to its full size; and certain portions of it, particularly its upper and anterior portion on one, if not on both sides, may be deficient. But in dementia, or that form of imbecility which supervenes after the brain has been fully developed, the organ will be found to have undergone serious changes from its healthy state. In some cases it is throughout firmer, tougher, and harder than natural—in this respect corresponding to an arm or leg that has been recently somewhat inflamed, and in consequence, rendered rigid and unable to exercise its func-

tions, from the embarrassment of still remaining interstitial effusions. This, however, as respects the brain, is an exceptional condition, and not usual in chronic forms of imbecility. It is rather the result of over-use of the brain, and is seen in those who die before the imbecility has been of long duration. But in most cases of chronic dementia—besides the changes effected by the escape and clotting of blood, the softening, the discolorations, and the unhealthy adhesions brought about by inflammation; and besides tumors, and morbid growths of various kinds either in the brain itself, or attached to its investing tissues, or to the skull above these—we will find in the cavities of the brain, or between it and its envelopes, a greater or less amount of watery fluid, more or less turbid, and the consistence or size of the brain itself varying from the healthy standard; and where the organs of sense have been long destroyed, we will find the nerves, and the portions of the sentient ganglia which supply these organs, also more or less wasted or diseased.

So far, then, as these facts go, we do know something of the relations actually existing between the mental operations and the structure of the brain. And if our knowledge of the minute anatomy, and of the functions of this organ were perfect, we would, doubtless, be able to trace these relations much further than we can at present, even to the demonstration that no permanent disease can exist in any part of the brain without corresponding injury to the mind, and to the every part of the physical frame over which the brain presides.

To say, then, that in all probability a post-mortem examination in the case of Mr. Parish, would not have thrown light upon his symptoms, seeing that he had not the use of language, by which we might have determined the measure of his intelligence, is to speak in plain

disregard of the principles of anatomy, physiology, and pathology.

10th. What, then, were the circumstances in Mr. Parish's case indicating disease of the brain?

a. He had threatening of cerebral disturbance for several years before his overwhelming attack of apoplexy and paralysis in July, 1849.

b. He had from that time onward, for every year of his life, and usually several times each year, violent epileptic convulsions, and at times, either associated with these or without them, gusts of excitement and irritability of temper, to such a degree as to render him difficult of management; and on the subsidence of these he was left more docile and tractable than he was ever known to have been in his best state of health.

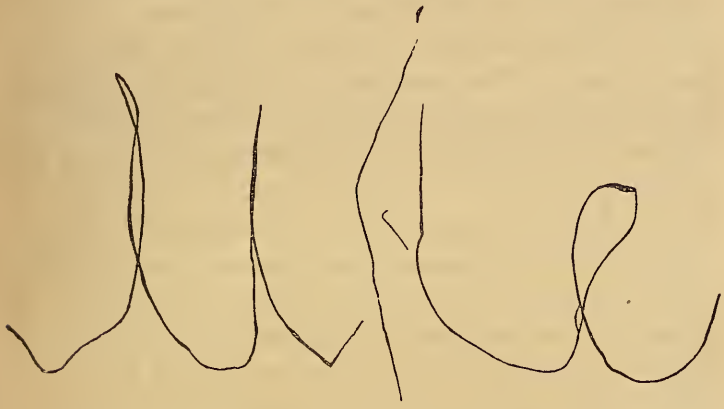
c. The violent attack of July, 1849, prostrated his intellect completely for a time, and to a very marked extent for the rest of his life. He never recovered the use of his right arm and hand, and his right leg was so much enfeebled, that he could not afterwards walk alone without artificial support.

d. Ever afterwards he was at times unable to control his natural evacuations, and was obliged to wear an apparatus to prevent him from rendering himself offensive to those about him.

e. The muscles on the right side connected with the vocal organs, like the muscles in other parts of the body on the same side, were paralyzed, yet not to such an extent as to prevent articulation, since he could at times pronounce several words more or less perfectly, and use most of the vowel sounds, as well as the combinations of these with several of the consonants; and yet he could not speak. He could not utter a distinct sentence, or more than one or two different sounds in immediate succession, and nothing to indicate continuity of thought.

f. We are told he could recognize letters, words and numerals. But he never used these in such a way, by pointing to them, or collating them, as to make a sentence, or to indicate any mental operation.

g. He had the full and free use of his left hand and arm, and yet he never wrote a single word, unless perhaps a portion of his own name; for, the allegation in reference to the word "wills," is shown by the exhibit 264, (Vol. III. p. 701,) to have been an absurdity. The following is the fac-simile.



h. He never could be taught to give expression to thought, by movable letters, or any other artificial contrivance to supply the loss of language.

j. He was never made to comprehend, so as to reply to, a complex or alternative proposition, containing even as many as two clauses.

k. He was, after the attack of July, 1849, never able to manage his own affairs. His estate was taken out of his own hands, and it would seem almost entirely out of his own control. He was permanently under the supervision of others, and managed, though it may be said with becoming delicacy, in entire accordance with their wishes. He was never afterwards his own mas-

ter, or at the head of his own household. He saw such persons as he was permitted to see, and at such times as he was permitted to see them, and none others. He was not indulged even with the expenditure of pocket-money. He was under constant supervision, as well for guarding as for amusing him. He was therefore treated by those who were about him in every respect as an idiot, or imbecile not yet reduced to that last and lowest stages of fatuity requiring total and permanent seclusion.

11th. But dementia, however profound, does not necessarily destroy all traces of intelligence. It rarely even approaches this. It may exhaust the mental power, pervert the passions, and change the configuration of the body; but it is apt to leave the higher instincts, and especially the long-continued habits which have acquired the force and character of instinct, unimpaired, or but very slightly discomposed. The patient in his better moments acts in accordance with his former usages, as far as his faculties will permit. He attends to conversation, he appears to enter into it, he enjoys society, his countenance responds to that of the person who addresses him, he even acknowledges acts of courtesy and kindness; and the more cultivated and imaginative the minds of those that see him only in his better moods, the more likely are they to be misled by mere appearances. For even without thought, the countenance of man is reflected in the face of his friend as in a glass.

47th.—*External Circumstances affecting Testamentary Capacity.*

The question of mental capacity in its legal aspect requires a moment's consideration. "The direct re-

quirements of law," says Dr. Mayo, "in regard to the understanding requisite for civil purposes, that is, in the disposal of property, is best expressed in the language of the Privy Council in the case of Harwood *v.* Baker; wherein it is said, 'In order to constitute a sound disposing mind, a testator must not only be able to understand that he is by his will giving the whole of his property, but also that he must have capacity to understand the extent of his property, and the nature of the claims of those whom by his will he may be excluding from all participation in that property—and therefore, the judgment proceeds—'The question, which their lordships propose to decide in this case is, not whether Mr. Baker knew that he was giving all his property to his wife, and excluding all his other relations from any share in it, but whether at that time he was capable of recollecting who those relations were, and understanding their respective claims upon his regard and bounty, and of deliberately forming an intelligent purpose of excluding them from any share of his property.' Assuming that the judgment here quoted * * * affords a standard of intellectual power in relation to the requirements of the law for the disposition of property, we learn from another part of the same judgment an important modification, which may be had recourse to in applying that judgment in some cases, in which the capacity of the testator might appear to fall below the standard: 'If their lordships had found (from other evidence) that Mr. Baker had, *while in a state of health*, compared and weighed the claims of his relations, and then formed a deliberate purpose of rejecting them all,—but had omitted to carry that purpose into effect, during [before] the attack of illness under which he died, and that during that illness he had acted upon that previous intention, and executed the will in question, *less evidence* of the *capacity to*

weigh those claims during his illness might have been sufficient to show that the will propounded did contain the expression of the mind and will of the deceased.'" [See *Dr. Thos. Mayo on the Medical Testimony and Evidence in Cases of Lunacy*, &c. Lond. 1854, p. 41.] Now, according to this test, seeing that Mr. Parish by the codicils would have wholly set aside the deliberate judgments which he while in health had formed of the claims of his relations—it would become necessary for the proponents of the will and codicils to show that when these codicils were executed Mr. Parish's mind was equal to their execution, by the test above given. But behind this comes another question, not less worthy of consideration. The question of undue influence, is, in this case, one not calling for a medical opinion, except so far as to show how such influence may have been acting on a mind circumstanced as was that of Mr. Parish. That such influence was exerted, the evidence abundantly establishes; and that it was effective, is equally clear, from the readiness with which Mr. Parish, a man who in health was never easily diverted from his purpose, nor ever known to act on impulse or hasty resolution,—could, without sufficient reason of his own, be brought to yield to the wishes of those around him, so far as to annul by codicils some of the most essential provisions of his will,—the very making of which codicils, or of some of them, is shown to have left no trace upon his memory.

Among the considerations requisite for establishing the competency of an individual for executing a will, and, of consequence, for modifying or altering a will by codicil, as set forth by wharton, [*in the Treatise on Medical Jurisprudence, by F. Wharton and M. Stillé.* Philada. 1855,] are the following: "He ought to have a disposing memory, so that he is able to make a disposition of his lands with understanding and reason,

and that is such a memory as the law calls sane and perfect." [§ 5.] He should be protected from "extraneous influence," and the over-importunity of friends standing in confidential relations." [§ 5.]

"The existence of idiocy (as a bar to competency) when that alone is set up, can be determined by comparatively simple tests." The test ordinarily applied is capacity for managing his own affairs:—for, says our author, "I will simply repeat what I have already indeed said, that those who are affected with lunacy, sometimes have the management of, and can manage, their pecuniary affairs,—an idiot, never." [§ 7.]

Again, "It should be kept in mind, that the question of competency is intimately affected by the character of the act or instrument which it is sought to annul." [§ 8.]

"In all cases, except those when the act sought to be annulled was committed during actual insanity, the question is not whether the party had a capacity to do the particular thing intelligently, but whether he had capacity and information enough to comprehend and disregard any attempt which may have been made to coerce or deceive him." [§ 9.]

"Testamentary incapacity does not necessarily presuppose the existence of insanity, in its technical sense. Weakness of intellect from extreme old age, whether arising from great bodily infirmity, or from intemperance, when it disqualifies the testator from knowing or appreciating the nature, effect, or consequences of the act he is engaged in, works a similar disability." [§ 12.]

"Wills have been set aside when they were preceded by over-importunity of friends standing in confidential relations,*—where the housekeeper and physician were

* Hecker *v.* Newborn, *Style*, 427.

shown to have earnestly urged a non-natural scheme of distribution ;* where the wife in fact dictated the will, the testator being at the time unable to speak, she pretending to understand him, and making herself the sole devisee for life, and imposing as a devisee in remainder a fictitious niece ;† where one relation produced the disinheritance of another by false representations as to his character,"‡ etc. [§ 5.]

48th.—*General Conclusions.*

Now, in connection with the conditions of competency above cited from Mayo and Wharton, we have already shown that in Mr. Parish's case they did not exist. He had not a disposing memory, according to the description of such memory as there set forth ; he was not free from the importunity of controlling friends ; the reasonable disposal of his property as originally made by him while in health, is not in keeping with the provisions of the codicils made at the dictation of interested parties, whose mistakes and miscalculations he was incapable of detecting, and whose representations concerning his absent relatives he had not the means of investigating ; he had not capacity enough to comprehend or disregard attempts at fraud or coercion, especially if they were made directly or indirectly ; his weakness of mind amounted to *dementia* in the technical acceptation of the term, as established by Esquirol, or to the *acquired idiocy* of Curveilhier ; and

* *Ex parte.* Fearon, 5 *Ves.* 633.

† Scribner *v.* Crane, 2 *Paige, C. C. R.* 147.

‡ Dietrick *v.* Dietrick, 5 *S.* and *R.* 207 ; Nussear *v.* Arnold, 13 *S.* and *R.* 323. Patterson *v.* Patterson, 6 *S.* & *R.* 55. For instances bearing on the same points which we have above considered, see also Beck, *Medical Jurisprudence*, Vol. I., p. 638; Albany, 1835 : and same work, Vol. II., p. 147 ; p. 640, 641 et seq.

was equal to, if not greater than, that dotage, or imbecility of the aged, which is admitted to work an incompetency.

But even granting that Mr. Parish, at the making of either of the codicils in question, was capable of understanding them, and of comprehending all the facts essential to the proper disposal of his immense estate; yet, from bodily infirmity, he was unable, by any means whatever, to communicate to others how he would have disposed of his property, had he been able to give exact expression to his own thoughts by speech, or writing, or any artificial sign. The codicils, and the disposal of property made by them, in which he appeared to acquiesce, were not devised by Mr. Parish; they were not the work of his own mind; they were, at best, accepted by him, under moral restraint; a restraint which neither he nor any disinterested person about him had means to overcome. They cannot be accepted as the unembarrassed expression of his wishes. Besides, he was in the position of one obliged to subscribe to these or nothing. The codicils, in short, were an affair of dictation, which at most he might reject or choose, but which he had not the spontaneous power to modify; and which, when accepted by him, were not the exposition of his will. For, it is an absurdity to suppose, even had he at the time of subscribing to them been perfectly sane—with his incapacity to give expression to thought—that any person, how intimate soever with his habits, could so enter into his views and secret motives, as to give a complete and thorough exposition of his wishes.

But I have already, and independently of these external influences, expressed my opinion. I believe that the organic disease of the brain was the determining cause of all Mr. Parish's ailments; and that the loss of control of his body and limbs, with the various compli-

cations of disease attending this, was merely the external evidence of an internal disorganization involving the functions of both mind and body, and destroying the integrity of the former.

Under this conviction, then, I hold that Mr. Parish was, from the primary occurrence of paralysis in July, 1849, permanently and irrecuperably disabled from executing any document of binding force; and, consequently, that he was thus disabled at the time his cross was subscribed to the several codicils in question.

JOHN WATSON, M.D.,
Surgeon to the New York Hospital, &c.

New York, September 12*th*, 1857.

OPINION

OF

D. TILDEN BROWN, M.D.,

PHYSICIAN

TO THE BLOOMINGDALE ASYLUM.

OPINION OF D. TILDEN BROWN, M. D.

I have examined the evidence "in the matter of proving the Last Will and Testament of Henry Parish, deceased," as given before the Hon. Surrogate of the City and County of New York, for the purpose of forming an opinion as to the state of mind of said Henry Parish, during the period commencing July 1, 1849, and terminating with his decease, and have therefrom drawn the conclusion that *said Henry Parish was of unsound mind throughout the whole period above named.*

This opinion is founded upon the following reasons, viz:—

First.—On the 19th day of July, 1849, Henry Parish, having previously experienced several slight seizures of cerebral congestion, (*Dr. Delafield*, I. f. 2097 & 3131,) became the subject of a violent shock of apoplexy: a disease or affection of the brain which is *frequently* followed by derangement or impairment of mind, and which is recognized as an adequate cause of mental infirmity by eminent authorities in medicine.

There is, perhaps, no abler English writer and no higher authority on this subject than Dr. Richard Bright, of London, who, in his great work, "Reports of Medical Cases," Lond. 1831, vol. ii. p. 328, bears the following testimony to the influence of apoplexy on the mental faculties. "The powers of the mind *generally suffer in some degree*, but this varies greatly:

sometimes the mind evinces great irritability, and sometimes a childish tendency to excitement, and a trifling turn quite inconsistent with the former disposition or with the present situation of the sufferer. At other times the patient falls into a dull state of imbecility; while cases occur in which the affection of the mind is so slight that it is only by close examination it can be detected."

See also *Watson's* "*Lectures on Principles and Practice of Physic.*"—*Phila. ed.*, 1844, *p.* 278. *Wood's* "*Practice, &c.*"—*Phila.*, 1852, *vol. ii., p.* 709. "*Combe on Mental Derangement.*"—*Edin.*, 1831, *p.* 134. *Burrows'* "*Commentaries on Insanity.*"—*Lond.*, 1828, *p.* 174. *Esquirol*, "*Maladies Mentales.*"—*Paris*, 1838, *vol. i., pp.* 64–74. *Guislain*, "*Leçons sur les Phrenopathies.*"—*Paris*, (*and N. Y., Bailliere,*) 1852, *p.* 81, *and Falret*, "*Recherches sur la Folie Paralytique.*"—*Paris*, 1853, *p.* 82.

Secondly.—In the case of Mr. Parish, the aforementioned exciting cause was followed by great impairment of the intellectual faculties; the diseased condition of the brain precluding the healthy exercise of its functions of thought, memory, judgment, and will.

This proposition is, in my view, established by the following facts, all co-existing, and terminating only with Mr. Parish's life.

1*st.* Henry Parish, subsequently to his attack, lived six years in entire disuse of nearly his whole previous vocabulary, never speaking a sentence, though physically able to articulate, as shown by his uttering a few monosyllables.

2*d.* Throughout the same period he never communicated with others by writing, although he retained the natural use of his left hand, and possessed adequate vision.

3*d.* In default of speech and writing he employed neither books, words nor letters, printed or manuscript, by which to point out or to form words conveying any ideas he might have wished to express.

4*th.* In place of the above means, and for the same purpose, he resorted to no *varied and significant* pantomime which intelligent observers could generally and readily comprehend.

5*th.* The very few signs which he did employ scarcely exceeded those head movements usually supposed to indicate assent and dissent; beyond these two, his signs were often unintelligible to his most constant associates; they were apparently contradictory in many instances when he was interrogated on matters of importance; and some of his most frequent and habitual signs were differently interpreted at different times by the same members of his family and household.

6*th.* One of his common gestures, or rather habits, performed by his unparalyzed hand, to wit, that of holding the fingers in his mouth, and, as it were, hanging his hand and arm upon his teeth, is one never habitually practised by others than idiots, imbeciles and demented persons, while it is not uncommon among all of these classes. Dr. Delafield testifies that Mr. Parish "often" did this. (*Dr. Delafield's evidence, I. f.* 3164.

7*th.* He *never improved* on his mode of communicating with others, throughout the whole period of his life subsequent to his attack of apoplexy on July 19th, 1849, either in articulation, writing, or variety and significance of gesture.

Thirdly.—Further proof of unsoundness of mind in Mr. Parish is furnished in the evidence that, by the apoplectic attack and disease of the brain following thereon, a great change was wrought in his affections,

sentiments, occupations, mental and personal habits, as manifested:—

By frequent irritability, anger and violence toward his wife, visitors and servants; alternating with an indifference to matters affecting his personal comfort and with a degree of docility equally unnatural to him in health.

Also, by an excessive emotional sensibility never before apparent, and now following very slight provocation; by a puerility or absurdity of demeanor which was not restrained even in the presence of strangers; and further,—

By an unnatural indecision of mind or fickleness of judgment—if he formed any judgment at all—in several instances of business propositions being made to him; by great inconsistencies of conduct on other occasions; and by a disregard of propriety in personal habits, reconcilable only with a perversion of his natural self-respect, calmness, and regard for social obligations.

In view of the above-mentioned conditions, following upon an affection of the brain which is the frequent precursor of insanity; continuing for a period of six years and until his death, and forming a marked contrast to the mental and moral traits of Henry Parish prior to his attack of July 1849, I am of opinion, as already stated, that he was of unsound mind for the whole period following the attack and terminating with his decease.

As there can exist no arbitrary standard by which to measure the mental capacity of any and every individual; and since mere loss of speech and of the power to write does not *necessarily* impugn the mental integrity of the sufferer from apoplexy, it is necessary in such cases to adopt some method of investigation which shall be equally acceptable to science, to human reason, and to justice.

The course of inquiry which I have pursued in the examination of the present case is that of comparing the combined intellectual, social, and moral nature of Henry Parish, as manifested subsequently to his apoplectic attack of July 19, 1849, with the same qualities as exhibited previously to that time, when Mr. Parish is admitted to have been in the healthy possession of his natural powers of mind and body.

This course is in strict accordance with the principle, asserted by the highest authorities on mental disease, that such comparison affords the most reliable test of mental derangement or impairment known to science. *Vide Combe*, "*Observations of Mental Derangement*,"—*Lond.* 1831, *p.* 219. *Ray, Med. Jurisp. of Insanity*, 3*d Ed. p.* 136. *Forbes Winslow*, "*Lettsomian Lectures on Medico-legal Evidence in Insanity*," *Journal of Psycholog. Med.—Lond. Jan.* '55. *p.* 127. *Williams on* "*Unsoundness of Mind*,"—*Lond.* '56, *p.* 52. *Bucknill on* "*Diagnosis of Insanity*," *in* "*The Asylum Journal of Mental Science*,"—*Lond. Jan.* '56 *p.* 234, *et seq. Sutherland*, "*Lectures on the Pathol. and Treat. of Insanity.*" *The Asylum Journal, Jan.* '56, *p.* 152.

Having thus presented a summary of conclusions, drawn from the evidence before the Surrogate, with references to authorities for the adequacy of the assumed cause of mental unsoundness in this case, as well as for the method of reaching these conclusions, I proceed to remark upon portions of the evidence upon which they are founded.

It will obviate complexity to consider the change in Mr. Parish's faculties, wrought by the apoplectic shock, in the order already followed, and I propose to compare, first, his intellectual functions, as manifested prior and subsequently to the invasion of paralysis.

It is conceded by all parties interested in this in-

quiry that prior to July 19th, 1849, Henry Parish was able to speak, read, and write with perfect facility, and that he possessed a mind of at least average capacity and firmness.

No intimation of natural eccentricity of character is found in these volumes, but, on the contrary, the whole evidence bearing on this point shows that he was free from any remarkable idiosyncrasy, distinguishing him from other men in a state of health, or likely to become exaggerated by disease. He had exhibited great sagacity in business matters, and continued to manage his large estate with undiminished prudence.

On the 19th of July, 1849, Mr. Parish suffered a violent shock of apoplexy which was followed by almost absolute abrogation of speech, and by complete loss of command of his right hand.

Thus deprived of his habitual instruments for communicating his ideas, feelings and wishes, Mr. Parish was limited to such substitutes, as his own intelligence or the ingenuity of friends might suggest.

As persons who have lost the right hand by amputation, find in its fellow of the opposite side a natural and immediate substitute for the purpose of writing, if they possessed the art before, so in all *ordinary* cases of paralysis of the same hand, if the individual's intellect and will remain intact, the left hand would be employed for writing, whenever the exigencies of the patient should urgently require.

It is not necessary to refer to the numerous cases, establishing this proposition, to be found in medical works. In Vol. III. of the evidence before us we find its confirmation. The statements of Messrs. Macdonald, Brownlee, and Delaplaine show that, whenever the intelligence of the victim of apoplexy or paralysis remains undisturbed, or so soon as it recovers its power of voluntary and comprehensible manifestation, *it em-*

ploys the best means at its command for its expression, and in default of its accustomed agents, avails itself of those substitutes, which at once suggest themselves to the common and sane mind.

Slowly recovering consciousness after a prolonged state of absolute insensibility, and apparently recognizing his family, Mr. Parish remained speechless, and from the moment of the attack until his death never addressed them a sentence of any nature whatever.

Of Loss of Speech in Mr. Parish.

This complete extinction of speech was owing to one of two causes, or to the simultaneous existence of both. Either *the brain*—whether as a single organ or in some special portion fulfilling that function, it matters not—was itself paralyzed as an organ of thought and intelligence, or *the nerves* which in health constitute the messengers of its will, were deprived of their proper functions by pressure, rupture or disease, and were no longer able to convey the inspiration of the most fertile brain to a palsied tongue. One or both of these causes, and nothing else, except a perverted, insane will, can explain the speechlessness of Mr. Parish from that time forth. Which of these causes was the truly existing one, it is important to ascertain.

The supposition that Mr. Parish persisted in silence for a period of six years, from mere wilfulness, and when perfectly able to speak, is not likely to be entertained by any one, and therefore needs no consideration here. That instances of wilful silence for a period not less protracted than is here presented, are not very unusual, every Insane Hospital occasionally contains living proof. But not of this kind was the mutism of Henry Parish.

Many witnesses assert, with great positiveness, that Mr. Parish, after his attack, did articulate clearly and

distinctly a few monosyllables. Dr. Delafield says of the words used by his patient, "those in most common use were 'yes' and 'no;' when in pain he would not unfrequently exclaim, 'oh, dear! oh, dear!' that was a common ejaculation; and at one period during the first year, when he had recovered to a great degree, and we were every day hoping that he might speak again, *there were a few words pronounced* which I do not remember, and they were not repeated." (I. f. 2082.)

Again, (I. f. 3151, '2) Dr. Delafield says Mr. Parish's utterance of the words "yes" and "no," was "distinct and intelligible," and "continued unimpaired to a period late in life." Also, Dr. Markoe. (II. f. 2076.) Dr. Delafield refers to words spoken by Mr. Parish which he does not remember, but all those mentioned by the various witnesses do not exceed a very few, viz: "yes," "no," "oh, dear," "her," "O, Gott," &c. But even these few, distinctly uttered, make it plain that the nerves, whose integrity are necessary for speech, were not destroyed in their vitality, nor cut off from the organ of thought.

There is one other explanation of Mr. Parish's prolonged speechlessness, and it is, in my opinion, the correct one. *Dr. Robert Todd*, of London, in his very able "*Lectures on Paralysis and Disease of the Brain*," says: "*The palsy of the face, and that of the tongue, conjointly, give rise to the imperfection of articulation often present in hemiplegia.* The patient speaks thick, and is especially indistinct in the pronunciation of labials and dentals, giving a guttural character to all his words. *But sometimes* (*i. e.* referring to another class of cases) *the power of speech is wholly destroyed, even in cases where these nerves have suffered but little or not at all*, and the powers of utterance are limited to 'yes' and 'no,' or either of these monosyllables; *and this is a sign of very unfavorable portent, as denoting, with other*

symptoms, extensive lesion of brain, superficial as well as deep." (*Phila. Ed.*, 1855, *pp.* 124, '25.)

These remarks furnish the true explanation of Mr. Parish's silence. Dr. Delafield says: (I. f. 3171:) "The right side of the face was *slightly* affected, less than usual, but this almost entirely disappeared in the course of his recovery. So quickly, that in about three months, I think, possibly even less, an ordinary observer would not have noticed it."

Thus it appears that neither was there such "palsy of the face" in Mr. Parish, as indicated any considerable impairment of its nervous energy, nor yet such "palsy of the tongue" as forbade the "*distinct* and intelligible" utterance of a few monosyllables.

His case was not then one of that class in which Dr. Todd first describes the patient as "speaking thick," but yet able, despite an imperfect articulation, to display an active intelligence by expressing rational ideas in appropriate language. It was, on the contrary, one of that other class in which "the powers of utterance are limited to 'yes' and 'no,' denoting, with other symptoms, extensive lesion of brain, superficial as well as deep."

Of Mr. Parish's Failure to Write.

So far as appears from the evidence, he never, spontaneously, wrote with an unaided hand a single legible word other than his own name, during the six years following his attack. Though solicited so to do by his family and physicians, and though oftentimes exhibiting great agitation of manner and apparent distress, when he was supposed to be desirous of conveying ideas to others, yet he never in a single instance, by significant signs, or otherwise, called for materials to write, nor used them when they were presented to him. It is admitted that no defect of vision deterred him from

such a course, but it is suggested that the difficulty and awkwardness of employing an undisciplined hand induced him to refuse to write.

When, however, important interests are jeoparded, information requisite to ensure the patient's welfare withheld, or humane exertions of friends in his behalf thwarted by his persistent refusal, such explanations lose all plausibility, and we are left to elect between intellectual incapacity or an irrational perversity of will as alone determining the individual's abstinence from an act, which would have at once allayed innumerable fears, and removed the doubts and perplexities which agitated all around him or connected with him: the very persons whose happiness he had once rejoiced to promote, and among them that person especially, in whom, if the codicils are to be taken as his act, all his tenderest affections were daily becoming more and more concentrated.

Although it is not shown that any dictionary or vocabulary was ever presented to Mr. Parish, as advised by Mr. Kernochan, (I. f. 874 and 1072,) whereby he might have pointed out words expressing his wishes; neither is it shown that he ever pointed to such book in his library, or manifested any disposition to use any book whatever for this purpose. He certainly did not use the block-letters procured by Mr. Henry Delafield, (H. Delafield, III. f. 372,) nor the card alphabet placed before him by Fisher, his attendant. (*Fisher's test.*, II. f. 1174, '5 and 1181.) That Mr. Parish rejected the aid of these articles as means of expressing his ideas, because he had succeeded satisfactorily in so doing without such help, and for the same reason pushed the card off the table, (*Fisher*, II. f. 1181,) cannot be said, for the case abounds with evidence to the contrary. And, besides, Mr. Henry Delafield expressly states that he, himself, procured the block-letters be-

cause "it was conjectured that Mr. Parish might be made to explain himself by means of them." (*H. Delafield*, III. f. 364.)

This failure to write, or to employ printed words or letters in his intercourse with others, might be ascribed to a loss of memory of printed and written words—a very common result of apoplectic paralysis—were it not claimed, and as well proven as any other fact asserted by the proponents, that Mr. Parish could and did read. The prolonged duration of this failure, however, renders it far *more probable that he could not read*, and that the loss of memory of printed or written words was even more complete than his loss of language, and, furthermore, that it was also like this last, directly dependent on the diseased condition in which the brain remained after the apoplectic seizure.

This special lesion of memory in cases of apoplectic paralysis varies greatly in degree and permanence. In the four cases described in the volumes of evidence before us, this fact is well illustrated. Mr. Macdonald states that, after his own attack, he began to read in two or three weeks, (III. f. 2187,) and to write his name on the third day after the shock. (III. f. 2198.) Mr. Delaplaine observed that his father practised writing with his left hand the day after his right arm was paralyzed. (III. f. 1912.) Dr. Brownlee proves that his own father began to write within six months after his malady set in. (III. f. 2048.)

In the cases of Mr. Macdonald and of Dr. Brownlee success was limited on first attempts, but increased with practice. In Mr. Parish's case, whatever slight success attended the early attempts at writing (if any success at all ever did attend them), soon ceased so far as to discourage those around him from soliciting further efforts, (Dr. Delafield, I. f. 3050, and Dr. Markoe, II. f. 2093,) although what was due to mental incapa-

city was attributed to fatigue of his hand. (Dr. Delafield, I. f. 3051.)

Despite the diversity perceptible in the four cases thus collated, there remains the material fact that in each there existed disease of the brain, impairing in a greater or less measure, and for a shorter or longer period, many important mental faculties, and among others the memory, in its special application to both written and spoken language, and irrespective of mere vocal ability to utter words. In the cases of Mr. Macdonald, Dr. Brownlee, and Mr. Delaplaine, knowledge and command of words, for the time suspended by the diseased condition of the brain, was gradually regained to a greater or less degree.

This special lesion of memory may perhaps exist without lesion of other mental faculties, and it is possible that modifications of its extent, occurring in the course of the patient's subsequent condition, may not be necessarily connected with such other lesions. Thus Mr. John F. Delaplaine, who came under my professional observation, regained to a considerable degree his former powers of speech, at the same time that his intellectual faculties became more and more impaired.

It may be proper to proceed still further in an examination of that phase of Mr. Parish's case now under consideration, since spoken and written language are the invention of man and wholly artificial. Though once acquired, they may be lost irrespective of disease, or any other circumstance than mere disuse. On the other hand, the language of signs is natural and universal, comprehensible in its simplest expressions by the most diverse races or the most moderate sagacity, and in its more advanced development by almost all persons of average intelligence. It is suggested intuitively, and gathers new symbols from an observation alike of animate and inanimate nature. That it is

more congenial to those whose lips are sealed in perpetual silence, while their minds revel in thought and imagination, and is therefore more generally employed by them than the more exact but also more laborious mode of writing out their ideas, is shown by the following extract from a valuable essay "On the Legal Rights and Responsibilities of the Deaf and Dumb," by Harvey P. Peet, L.L.D., President of the New York Institution for the Deaf and Dumb:—"It is by no means true," says Dr. Peet, "that a deaf-mute who has been taught to read and write, however expert he may be, finds writing the easiest and surest means of communication with his relatives and friends. In most cases, on the contrary, the relatives and friends of an educated mute find it much easier to learn to communicate with him by signs, than to suffer the tediousness and other inconveniences of having to write every communication. And there are few deaf-mutes from birth, however well educated, who do not understand signs skilfully made more easily and readily than writing."—*American Journal of Insanity*, *Oct.*, 1856.

To draw the analogy between conditions which cannot, with propriety perhaps, be forced into such relations, may we not suppose that all knowledge of written and spoken language may be at once extinguished by adequate injury to certain portions of the brain, and that the individual be still left in the full possession of sound mental perception, reason, judgment, and freedom of will. If such a condition be possible, the individual must henceforth resemble, in a great degree, a sane but uneducated deaf-mute, possessing spontaneity of ideas, with the desire to hold intercourse, and the power of devising signs for that purpose.

The exact limit of mental capacity in such an individual could only be determined by special tests; but the exhibition of intelligent comprehension, or of intelligent

assent and dissent on his part, could scarcely require such a process to call it forth.

In the cases of loss of speech and inability to write with preservation of reason to be found on record, special tests of mental vigor and of integrity of judgment were applied to the patient, attended by satisfactory proofs of rational understanding and free will.

In that of Henry Parish, his regular medical attendants, Dr. Delafield and Dr. Markoe, state that no formal tests were employed by themselves for the special purpose of determining his mental condition; and we are therefore left to arrive at an estimate of it from his own manifestations, either spontaneous or responsive to questions and remarks not *intended* as mental tests, but in effect serving the same purpose, as far as they go. We must, therefore, resort to these manifestations.

Of Mr. Parish's Gestures of Communication.

It thus remains to inquire what means Mr. Parish devised, of his own will, as substitutes for spoken, written, or printed words, to impart a knowledge of his ideas and wishes.

The concurrent testimony of a large number of witnesses shows that his gestures were but few in number, and that these few were *habitually used without material modification.*

Nodding and shaking his head; raising his left hand before his breast, with one or more fingers extended—"sometimes one, sometimes two, sometimes three, and sometimes all four, (*Dr. Markoe*, II. f. 2087,) and pointing with the same hand, constituted about the range of his pantomime. Adding to these a peculiar use of one or both hands on rare occasions, as described by Mr. Henry Delafield, (III. f. 329,) and construed, by that gentleman, to mean a demand for

money, although he admits that no money was given him at such times, (III. f. 329,) and in these few simple movements of the head and hand *were comprised all the arbitrary signs which Mr. Parish employed to hold intelligent intercourse with his family and acquaintances.*

The only other *habitual use* of his unparalyzed hand, described in the evidence, viz., that of thrusting his fingers into his mouth and hanging his hand upon his teeth, (*L. M. Wiley*, II. f. 95 ; *Clark*, II. f. 2205 ; *Dr. Delafield*, I. f. 3164,) was not interpreted, as far as appears in evidence, to be *a sign of communication.* No interpretation of this act is given by the witnesses; but to those whose pursuits bring them into frequent association with unfortunates of a certain class, this act is full of the most discouraging significance.

It is a habit, not infrequent among demented and idiotic persons, and is demonstrative of most deplorable "absence of mind," characterized by desuetude, alike, of good breeding, propriety, and intelligent consciousness of their own conduct.

Aside from this, the gestures of Mr. Parish are said to have been regarded by his household and others, as intentional and significant. Of their intelligibleness, Dr. Markoe says: "Mr. Parish had the power to communicate ideas only by giving an affirmative or negative motion of the head in reply to questions proposed to him. (II. f. 2118, 2124, '5 ; see also *Dr. Delafield*, I. f. 3249 ; *Daniel Lord*, I. f. 517 ; *Fisher*, II. f. 1226, 1238, '9.)

Mr. Parish's most habitual and frequent gesture, viz., raising his hand with fingers extended, (*Dr. Delafield*, I. f. 3164, '5,) and also his sign of pointing at persons or objects, were generally regarded as calling for questions, and in his own household it was customary at such times to propound questions to him. (*Dr. Markoe*, II. f. 2002

and 2087; *Fisher*, II. f. 859 and 1199; *Youngs*, II. f. 683; *Kernochan*, I. f. 849; *Dr. Taylor*, I. f. 3361.)

His supposed intention was often believed by his family to be ascertained within a very few moments; but both gestures and questions were frequently continued to a fatiguing and annoying extent, sometimes accompanied by great agitation of manner, and tears on his part, (*Youngs*, II. f. 781,) and with absolute failure to arrive at any probable recognition of his wishes.

These scenes were sometimes continued for an hour, and yet Mr. Parish *never resorted to any new act or gesture*—to impart his meaning or to relieve the embarrassment of himself and others.

Nor were these scenes of such rare occurrence as to permit the conjecture that he abstained from intelligible pantomime, or clearer intimations, from mere wilfulness. Numerous witnesses testify that they occurred under a great variety of circumstances, and were ascribed to Mr. Parish's *inability* to make himself understood. (*Dr. Delafield*, I. f. 3006, '7, 3249; *Dr. Markoe*, II. f. 2002; *Henry Delafield*, III. f. 309, 310; *Tileston*, II. f. 478; *Youngs*, II. f. 779, 780; *Dr. Wheaton*, II. f. 662 of page 228; *Brown*, II. f. 1510–'12; *Whittaker*, II. f. 1684; *Fisher*, II. f. 1226–1238; *Davis*, I. f. 559–562.)

Independently of these extreme cases, there existed on the part of different observers, even according to their own notions of it, a great diversity of success in interpreting Mr. Parish's gesticulations. Fisher, William Brown, and Edward Clark, the coachman, say they found little difficulty in comprehending them, while Mr. Kernochan "attached no definite meaning to them of his own observation," (I. f. 849,) and Mr. Gasquet "could not understand his gestures," (III. f. 2008, '9,) and says Mr. Parish "could not make himself under-

stood; I could not understand him." (III. f. 2011.) Mr. Wiley says, "I think I did say to Mr. Bronson that Mr. Parish could not make a suggestion or originate anything that I understood." (II. f. 149.) This is only a specimen, various other witnesses testified to the same effect.

This diverse facility of comprehension corresponds to what is frequently observed by guardians of the insane and of imbeciles. As a general rule, it is found that the confidence of the witness in his powers of interpreting enigmatical phrases and gestures is in inverse ratio both with his general and special experience.

Again, to the few habitual gestures of Mr. Parish, widely various significations were assigned by different persons, and even by the same person at different times. That one which was supposed by some to indicate a desire for questions, (*Dr. Markoe*, II. f. 2002–2087, and others,) was very differently construed on different occasions. Thus, in the interview with Mr. Tileston, when Mr. Parish raised two fingers, this gesture was interpreted by Mrs. Parish to mean two *thousand* dollars. (*Tileston*, II. f. 470.) At the time of Mr. Gibson's applications for subscription to a charitable object, on the same sign being made, Mrs. Parish asked her husband if he meant two *hundred* dollars, and as other fingers were extended an additional hundred dollars was named by Mrs. Parish until five hundred was mentioned. (*Gibson*, II. f. 1865.) When Mr. Donaldson called upon Mr. Parish for a similar object, the latter held up his hand, extending five fingers, "appearing to count them, whereupon Mrs. Parish said she supposed he meant to inform me (Mr. Donaldson) that he had recently contributed to five different benevolent objects." (*James Donaldson*, II. f. 1580.) On another occasion, Isaac H. Brown being present, Mr. Parish "looked at the check,"

which Brown had received from Mrs. Parish for pew rent, "and began making a noise, *crossing the first two fingers of his left hand, raising his hand.*" "As soon as she (Mrs. Parish) saw it," says Brown, "she gave me ten dollars." (*I. H. Brown*, II. f. 1713.) So far as appears from the evidence, Mr. Parish was not inquired of, in this instance, as to his intention of bestowing any gift whatever.

Regarded separately, all of these interpretations, except the last, manifestly depend for their correctness upon Mr. Parish's *intention* to express a wish; upon his comprehension of the questions of his wife, and upon the character of the ensuing gesture, if any, as being responsive or merely automatic. Taken together, and as constituting *the only occasions* on which an unvarying habit, occurring frequently every day of his life, *received, in each case, a construction attributed to it at no other time*, and especially when viewed in the light thrown upon them by other evidence, these interpretations must be adjudged by medical men, accustomed to see individuals in a state analogous to that of Mr. Parish, *to be wholly arbitrary and inconclusive as establishing or explaining any intention on the part of Mr. Parish.*

No tests, worthy of the name, were employed in either of the above quoted instances to remove the doubts which might justly have existed as to Mr. Parish's *intention*, if, indeed, he had any intention; but a test is found in comparing them with other occurrences of a nature not dissimilar.

George Simmons, an attendant on Mr. Parish, says, "Mr. Story asked me if I thought that Mr. Parish wanted oysters; I told him yes; Mr. Parish put up his left hand, with all the fingers raised and extended, and said, 'yean, yean, yean, yean;' Mr. Story then asked him if he wanted 500, and he said 'yean, yean,

yean,' and made the same motion; the oysters were sent home, 300 of them were returned back to Mr. Story," by direction of Mrs. Parish, as witness states. (I. f. 1724.)

Wm. Youngs, who was much at Mr. Parish's house during his illness, describes the gesture of inquiry, (II. f. 683,) and says, (I. f. 743,) "*he often put up his hand and fingers in that way in saying 'yes' and 'no' both;* but when a matter of inquiry, the sound was nin, nin, nin, as near as I can pronounce it and spell it."

As the sound made by Mr. Parish was inarticulate, it was doubtless the same when heard both by Simmons and by Youngs, as well when they supposed Mr. Parish to be making the sign of inquiry, as when they believed he was giving assent to the inquiries of others.

Thus it appears that not only was there no application of combined positive and negative tests to determine beyond doubt the existence of any such *intention* on the part of Mr. Parish as was inferred in the instances cited, but that decisions were sometimes made by the interpreter without interrogating him at all. (*See Brown's ev. before quoted.*) *Moreover the very same signs and sounds supposed to have been used by him "to solicit an inquiry," are also said to have been employed, without any variation whatever, "to express both assent and dissent" to the suggestions of others.*

Another common gesture of communication imputed to Mr. Parish remains to be considered—viz., *the act of pointing.* Mr. Parish is stated to have "pointed" at persons, at his check-book and bank-book, at a drawer containing account-books, at buildings, at his watch and house-clock, at the City Hall clock, at his carriage, at his horses, at meats and vegetables, and at sundry other things.

But beyond pointing, he did nothing to indicate any idea or wish connected with the person or thing

pointed at, unless by nodding or shaking his head to inquiries from others; and when the latter failed to derive from these motions any idea of his meaning, Mr. Parish never made use of any new gesture or sign which was thought to express his purpose, or any purpose, more clearly and appreciably.

The pantomimic gestures of Mr. Parish, which, had he retained any considerable degree of mental spontaneity and force, should have been comprehensive, varied and significant, were exceedingly meagre and unmeaning.

They never improved, and his sign-language throughout the paralytic portion of his life was so often unintelligible, and was so seldom varied to conform with the circumstances of the special occasion for its use, that it fails to indicate an intelligent adaptation of means to a given end, based on definite ideas of the nature of both.

I infer, therefore, that his failure to employ a varied and competent pantomime resulted from the same cause as did his failure to write with his left hand—viz., from an exhaustion of mental power which was due to disease of the brain, and which so far impaired the intellectual faculties, that with a loss of the special memory of words, there existed also a grave lesion of the general memory; an incapacity of conceiving any save the most simple ideas, and an inability to *devise* reliable media for spontaneously and independently expressing even these.

Mr. Parish's brain was diseased, and, as one consequence thereof, his mind was greatly impaired and actually unsound.

Mr. Parish was, ever after his apoplectic attack of July, 1849, in a state of dementia. This condition of mind greatly resembles congenital idiocy, and is not different in its consequences.

This form of mental impairment is truthfully de-

scribed by Dr. Aubanel, physician of the Lunatic Asylum of Marseilles, France. In a medico-legal opinion respecting the mental condition of an alleged testator, *Dr. Aubanel* says: "Dementia is not mania, properly speaking, though dementia often forms the termination of acute mania. It declares itself whether followed by paralysis or not—more especially if accompanied by paralytical phenomena—when the cerebral irritation, by its continuity, its persistence and its intensity, ends by inducing organic lesion of the brain. In many cases the symptoms of dementia occur primarily; but whether it be consecutive to mania or whether it devolope itself as an essential disease, we may consider it, so to speak, as a wearing-out of the brain, as premature senility, or as a state of puerility. Thought becomes slow, obscure and laborious. Memory, especially that of recent events, is gradually weakened. The patient preserves well the recollection of his name, of his characteristics, and of those things which have pre-occupied his attention, or which constituted the peculiar habits of his life. But even this remembrance is often confused, and it is in general necessary, to fix his attention, to offer suggestions in order to obtain the clearness we solicit. Impressions are always more or less fugitive; they are rapidly effaced, leaving but slight traces of their existence. In dementia there are often momentary emotions of tenderness; tears are aroused on the occasion of a request or a remembrance; but they are extinguished in a few moments, and there follows immediately, in many cases, excessive laughter, a feeling of joy, of satisfaction, and it might seem of happiness. The demented person exhibits neither spontaneity nor energy, and solicitation is requisite to procure any manifestations of thought. Volition, that faculty of the first order, is remarkably impaired. It is but a

shadow of what previously existed, and it no longer perceptibly governs the determination of the individual. From the demented man we may obtain all that we wish; we may guide all his actions; but, yielding at one moment, without resistance to those about him, he promises full compliance, but on the very same day, or after a period of greater or less duration, he decides contrary to those promises, and yields to a new influence which has been exerted over him, retaining no recollection of what he had before promised. Freedom of the will is greatly weakened in this form of cerebral affection, and more so than in mania, properly so called. In mania an intermission of the disease may occur, or a prolonged lucid interval; but in dementia, though there may be at times suitable replies and momentary apparent clearness on various subjects, true intermission is impossible, and it never occurs. Dementia is sometimes susceptible of amelioration, but this alteration is far from permanent. It constitutes only the semblance of cure; and if the patient is carefully watched during these periods, apparently so encouraging, there is always discernible a lesion of the will, more or less marked, and an impairment of the intellect." (*Annales Medico-Psychologiques*—Paris, October, 1856, p. 564; and "*American Journal of Insanity*"—Utica, April, 1857, p. 398.)

In thus closing a review of Henry Parish's intellectual condition, and in entering upon an examination of the changes effected, by disease of the brain, in his moral qualities, it may be remarked that, in passing upon the question of the mental soundness of an individual, we are not necessarily confined to an investigation of the memory, understanding, and will of the party.

Almost every victim of Dementia who has once

possessed a considerable share of intelligence retains more or less memory of persons and things, as well as of his former habits. He may recognize acquaintances; may reply with correctness and propriety to questions relating to his personal history or present condition; and may even read aloud without omitting a single word in a considerable portion of text.

But it becomes important to ascertain how much of this is due alone to memory and habit, and whether it is accompanied by a rational perception of his relations to others, and an intelligent understanding of what he perceives, narrates, and reads.

Says Dr. Ray, in his well-known and authoritative work on the "*Medical Jurisprudence of Insanity*," *sec.* 243, "We ought also to bear in mind a fact too much overlooked, that much of the ordinary working of the mind, whether sane or insane, becomes somewhat instinctive and mechanical, and goes on, if not entirely independent of the reasoning powers, certainly without their close and active supervision." But, adds the author, let the patient "be tried on something that requires *a fresh and active exercise of thought, something that requires control of his feelings*, and then we shall see how feeble is the dominion of reason."

Thus, not only is *the act* of the patient to be considered, but the *quality of the act* must be learned if possible; the probable reasons which prompted it; its propriety under the circumstances of its occurrence, and the consistency both of the act and its motives with the patient's *former habits of judging, feeling, and acting on similar occasions. In a word, the individual in his diseased condition must be compared with himself when confessedly sound. And this comparison must refer to him in each state not only intellectually, but also as a moral being.*

A comparison of Mr. Parish's moral qualities, as exhibited in health and again after his attack, reveals

a change from his natural affections, feelings, domestic and social inclinations, temper, and habits, incompatible with continued mental soundness. And it should be kept constantly in view, that this change followed immediately upon the invasion of a cause, which all will admit was adequate to produce mental unsoundness.

The perversion of his natural sentiments and propensities, thus induced, continued throughout his whole life subsequent to his attack, and taken in connection with the intellectual deprivation already pointed out, leaves no room for doubt that, in all material respects, Henry Parish's individuality as an intellectual, moral being, was thoroughly subverted at the moment of the apoplectic shock, and that it never recovered its normal integrity.

On this second point there is far less discrepancy of opinion on the part of the associates and visitors of Mr. Parish, than on the one first examined. His conduct and his emotions, generally, if not invariably, were patent to all observers. No apprehensions of ridicule, such as are supposed to have deterred him from writing, restrained the exhibition of his impulses; no arbitrary tests were needed to call forth a display of agitated feelings, otherwise concealed by the effort of a will responding to motives of delicacy and propriety.

Although Mr. Parish generally presented the tranquil, impassive appearance and manner of most demented paralytics, he yet preserved *some* degree of intelligence, slight as it was, and like all human beings, no matter how deplorably imbecile or fatuous, he retained propensities which still sought gratification, and mental habits and inclinations founded in early life and confirmed by years of daily routine.

But "the governing principle of the mind" was gone, and the patient vacillated between a state of passive indifference and of tumultuous emotion, which

discredits the supposition of a supervising and controlling reason, such as in his former days of health had formed his character, determined his relations to society, and controlled his demeanor in the privacy of his own household, as well as in places of public resort. The testimony of witnesses is so full on this particular, embracing the whole duration of Mr. Parish's illness, and exhibiting him in a great variety of relations, that nothing more could be desired to throw light upon the inquiry. An analysis of the evidence of nearly every witness, as to Mr. Parish's conduct, would present a harmonious whole, irresistibly conclusive to all physicians practically familiar with mental alienation. Mr. Parish, when in health, is said to have possessed a good mind, not quick in perception or resolve, *but very decided when a determination was made.* (*Dr. Delafield*, I. f. 2040. *Wiley*, II. f. 64. *Heny. Delafield*, III. f. 22.) After the attack of July, '49, his gestures of the head, if *intended to be responsive* to queries addressed to him by various persons upon important matters, frequently indicated great irresolution or instability of mind. Thus (I. f. 863) Mr. Kernochan says that when, in company with Mr. Folsom, he asked Mr. Parish if he desired to have his will, Mr. Parish both shook and nodded his head. Folsom (I. f. 1144) makes the same statement, and again (in I. f. 1141) he declares that similarly incongruous gestures were made by Mr. Parish on another occasion when the same question was addressed to him. The same witness makes the same relation respecting an inquiry put to Mr. Parish about the Union Square property. (I. f. 1122 to 1125.) Mr. Ogden (I. f. 1475, '6) relates the same course of conduct when application was made at the Bank for Mr. Parish's trunk containing valuable papers, and Mr. Jones (III. f. 1642) says the same thing occurred when he sought to learn Mr. Parish's preference as to the form of his garments.

Mr. Wiley (II. f. 53) states, that he made Mr.

Parish an offer for the Texas lands. Mr. Parish shook his head. Mr. Wiley remarked that the other partners assented, whereupon Mr. Parish nodded. "Both gestures were made within a minute or two." (II. f. 94.) Mr. Wiley himself doubtless gives, in a measure, the true explanation of this contradictory course. (II. f. 79–80.) "He was perhaps not as firm after the attack, for in the settlement of accounts he would give way, yield his own opinion for others." But this disposition to yield his opinion, however frequent in interviews with Mr. Wiley, was by do means universal on occasions of business propositions being made to Mr. Parish. Persistence in a supposed determination was sometimes observed under circumstances which rendered it quite as inexplicable as the supposed concessions at other times, and less reconcilable with reason.

Mr. Youngs, in whom Mr. Parish, when well, seems to have placed much confidence, and who was frequently at work in the house, applied to Mrs. Parish for a loan on his property, Mrs. Parish at that time holding power of attorney to manage her husband's property and business.

Says Mr. Youngs—"Mrs. Parish stated that she would like to take the loan, but did not know whether Mr. Parish would consent; she said I must see Mr. Parish." On receiving the application Mr. Parish first shook his head and then nodded. (*Youngs*, II. f. 700.)

On a second occasion of the same kind, Mrs. Parish having expressed her own willingness to make the loan, Mr. Parish shook his head throughout the interview, without more apparent good reason than in the first instance. (*Youngs*, II. f. 706.)

On a third application of like nature, with similar approval of his wife, Mr. Parish first shook, then nodded his head, and, as it would seem, with even less reason for a change of mind than in the preceding case. (II. f. 707–9.)

Mr. Parish's conduct on these several occasions was

strikingly at variance with that tenacity of purpose admitted on all hands, and claimed by the proponent to have characterized him in health.

Two similar scenes, described by Mr. Daniel Lord, expose either great irresolution, instability of purpose, or a mental vacuity, incompatible with accurate perception and understanding of the suggestions, united with a rational will in yielding thereto.

Says Mr. Lord, (I. f. 438,) "at the sound of inquiry from Mr. Parish, the suggestions came from Mrs. Parish of his disposition to disturb the gifts to his brother's children," and (I. f. 439,) "it was acquiesced in by him, when it was made by expressing 'yes.'" "I said to him," adds Mr. Lord, "that that would be harsh, and making the difference between them to bear upon the children," (I. f. 444), "he forbore to make the sign of inquiry, and indicated a hesitating acquiescence by some sign or sound which I cannot now remember." (f. 445.)

Mr. Lord states that substantially the same train of circumstances was repeated on a later day. (I. f. 471.)

In direct contrast with this course of conduct, and equally inexplicable by his natural habits in health, was his supposed determination to purchase a certain amount of stocks. (*H. H. Ward*, II. 1890.)

If the remarkable scenes thus selected show only defective attention and want of concentration of mind on Mr. Parish's part, they prove a great change in his mental habits on important occasions. If they also show vagueness of comprehension, instability of decision, and contradictory resolves, they still more establish a profound obscuration of his natural faculties.

Other than this conclusion no plausible one is left, in my opinion, save the more comprehensive one, *that so complete was the prostration of Mr. Parish's understanding, reason, and freedom of will,* that he acted, as do most demented persons, from impulse and upon sudden suggestions, without true consent or reflection, and

even without knowledge of the import of many interrogatories to which they reply, or of their own responses thereto.

Of his disposition in domestic life, and as a member of society, we are informed that prior to his attack, Mr. Parish was "exceedingly affable, amiable, and courteous;" (*Hen. Delafield*, III. f. 22;) that he "was amiable, kind, and indulgent toward his wife," (*Dr. Delafield*, II. f. 3010, and *H. Delafield*, III. f. 22,) and that great self-respect, studious courtesy, and propriety of demeanor in his intercourse with others, were marked characteristics of his life." (*Dr. Delafield*, I. f. 3231.)

Subsequent to the commencement of his cerebral affection, though he was generally placid and tractable, he frequently exhibited great irritation and even violence, at variance with his former self-control. Dr. Delafield says he "became irritable and changed in disposition." (I. 2098 to 3000, 3012.) He was sometimes quite out of temper toward his wife on occasions when such conduct seemed especially irrational, in the absence of all explanation of his persistence; as when Mrs. Parish declined to draw checks from insufficiency of bank deposit; (*Wiley*, II. f. 143. *H. H. Ward*, II. f. 1890. *Youngs*, II. f. 722.) And again, when his wife remonstrated against going to Greenwood, as she was ill, despite which he would go. (*Richd. Delafield*, II. f. 1767.) Dr. Delafield testifies, (I. f. 3014,) that "now and then, when he was apparently proposing a question to somebody, *and anxious to get the information,* he would not allow her to interpret for him, and was impatient, and this would, of course, get him into greater difficulty, and increase his impatience."

When in health Mr. Parish was "not a man of sentiment," (*Dr. Delafield*, I. f. 3011,) but throughout his protracted disease he continued femininely sensitive, and "any emotions were more easily excited in him than before," so that he would often weep on seeing

former friends, as well as when not understood. (*Dr. Delafield*, I. f. 2099. *Wiley*, II. f. 15 and 20. *Tileston*, II. f. 449, 529. *Webb*, II. f. 664 of page 232. *Wheaton*, II. f. 653. *Youngs*, II. f. 780. *St. John*, II. 1844.)

This kind of sensibility, though common in paralysis, is far from being universal, and however explained, it still shows an infirmity of the will, i. e. that it is no longer able to control the emotional impulse.

Despite his former politeness, "studious courtesy, and propriety of demeanor in his intercourse with others," he frequently used menacing gestures towards his attendants, and on one occasion was much excited, shook his head violently, and made a repelling motion with his hand towards an acquaintance entering his own house. (*Tileston*, II. 524. *Heny. Young*, II. f. 1619 et seq.:) see also (*Austen*, I. f. 1910.)

The incident narrated by Mr. Campbell (III. f. 1876) as witnessed by him in front of Mr. Parish's house, is one which could only have occurred to an imbecile or demented person. It presents a type of Mr. Parish's mental condition, and furnishes a key to the comprehension of much of his conduct; that is to say to those parts of it which, to those unfamiliar with such exhibitions, might seem to be only mysterious and eccentric, but which is irrational, absurd, and insane in a man of mature years, whose previous life had been free from puerilities and folly.

In strong resemblance to this scene was that enacted by Mr. Parish, when his tin box was placed before him by Dr. Markoe. Fisher's evidence regarding it (II. f. 1108) as far as confirmed by Dr. Markoe, (II. f. 2056,) places the transaction in the same category of irrational conduct as the preceding.

The change in the personal habits of Mr. Parish, dating from his attack, were such as could not have followed upon simple loss of speech, and paralysis of an arm and leg, without mental perversion. The tradesmen, with whom Mr. Parish had been accustomed

to deal before his attack, and his personal attendants during his malady, present in their testimony a daguerreotypic representation of a man whose mental lineaments may be as easily recognized therein, as could his physical portraiture in a photograph from life.

Mr. Case, of whom Mr. Parish had been accustomed to purchase market-produce before his attack, describes his subsequent conduct, and declares that his signs were so unintelligible that the witness "never could tell what he chose in particular," (I. f. 1893;) that articles were sometimes sent back, which were taken in the carriage with Mr. Parish, and that witness "told his men not to send things until Mrs. Parish gave the order, or until the waiter came back for them, after he had taken Mr. Parish home." (I. f. 1905.)

Theodore Austen, poulterer, with whom Mr. Parish had dealt for twelve years, says that when he showed Mr. Parish some birds, the latter "took his cane, flurried it about and scared me," and that he (witness) told Mrs. Parish he "could not make Mr. Parish understand." (I. f. 1910.)

Stephen Sammis, shoemaker, says he never saw Mr. Parish take any part in the selection of shoes intended for himself, in the several times that witness supplied him. (III. f. 1617.)

Wm. J. Jones testifies, that on two different occasions, one being at Mr. Parish's house, and the other at witness's store, he tried several times to learn Mr. Parish's preference of samples for garments, but without success. He says that Mr. Parish "would nod his head, and then in a minute after, when I thought I had got the answer, he would shake his head." (III. f. 1642.)

On the second occasion, at the store, this witness, after repeated failures of the same kind, produced new samples for Mrs. Parish to show her husband, and states that "she showed him one piece, asked him if he

wouldn't like that, *he would shake his head, and then he would nod his head;* at last she picked out a piece, and said to make him a coat off that." (III. f. 1646.) Witness says, "I told her I could not understand him." (III. f. 1643.)

Wm. Youngs, builder, says, (II. f. 723,) "I have spent from ten minutes to an hour trying to understand him;" "when I could not understand him, Mrs. Parish would assist me to find out his meaning;" "two or three times I went away from the house, not having arrived at his wishes." (I. f. 725.) "I have stated fifty times it was difficult to make him understand, because he couldn't talk." (II. f. 775.)

Gibson, harness-maker, (I. f. 1867,) and Mulligan, blacksmith, (I. f. 1876–'80,) observed no signs of interest on the part of Mr. Parish, during their business conversations with Mrs. Parish; and Youngs relates, that when he spoke to Mr. Parish about his tenants, "sometimes he made response, sometimes he did not apparently; sometimes he would look at Mrs. Parish, then at me; I then would address my conversation to her; *he did not seem to take any further interest when that state of things existed.*" (II. f. 695.)

From those who served Mr. Parish as personal attendants during his prolonged malady, it appears that his general demeanor varied greatly, alternating between the calmest docility, and a degree of irritation at times exhibiting itself in threatening gestures and even in actual violence and blows.

Simmons, attendant on Mr. Parish, testifies of Mr. Parish, that his temper was "sometimes very mild, sometimes very much agitated," (I. f. 1701;) that when thwarted or restrained in his desires at table, "he would get very irritable, he would beat on the table with his hand closed," (I. f. 1696;) and that he "shoved" witness, and also Mrs. Parish. (I. f. 1702,)

Wingrove, also an attendant, substantially makes the same declarations as Simmons, (I. f. 1506, '18–'19–'20,)

and says, "When Mr. Parish was passionate there was no man nor woman either that appeared to have any control that might last 5, 10, 15 or 20 minutes, half an hour, &c., but when recovered from that you could lead him about like a child." (I. f. 1609.)

This witness describes scenes occurring when he was dressing Mr. Parish, (I. f. 1508–'10;) at market, (I. f. 1514;) at Root's in Broadway, (I. f. 1523;) at the front door of his house, (I. f. 1531;) on occasion of a visit by Mr. Daniel Parish, (I. f. 1540;) and with the statuary in the parlor, (I. f. 1650;) wherein the conduct of Mr. Parish was wholly inconsistent with the supposition that his judgment and moral faculties remained sound and unobscured.

James Clarke, attendant, testifies to rude conduct by Mr. Parish toward his wife, (I. f. 1733–'6,) as that "he would give her a push sometimes," and that "he gave her a drive," when she was endeavoring to minister to her husband's comfort. (I. f. 1778.)

That the restraint which provoked many of these exhibitions of temper by Mr. Parish toward his wife, was considered necessary, and was therefore recommended by his physician, Dr. Delafield, is shown by that gentleman's own evidence, (I. f. 3012.) The "anger" which, says Dr. Delafield, Mr. Parish "frequently betrayed" on these occasions, was exhibited toward his wife, whom he had, when in health, treated with the utmost kindness and indulgence, and it must therefore be attributed to his inability any longer to appreciate the affection and sense of duty which imposed these restraints.

Beside those perversions of all his natural traits already referred to, Mr. Parish exhibited at times a lamentable disregard of propriety in his personal habits, under circumstances which permit but one interpretation of his acts. At such times he resisted removal from the table, when it was apparent from his movements that his necessities required it, and the natural

dejections of his body occurred in his garments. (*Simmons*, I. f. 1718. *James Clarke*, attendant, II. f. 1744–'5. *Edward Clark*, coachman, II. f. 2225.)

The amusements in which Henry Parish had long been accustomed to indulge, terminated with the invasion of his disease. He had been fond of whist-playing, and was an habitual attendant at his club-house for such purpose, (*Webb*, II. f. 671.) After his attack he was never known to play, and, so far as shown by the evidence, was only once invited to take part in any game at home, on which occasion he "declined by shaking his head and saying 'No.'" (*Henry Delafield*, III. f. 180.)

In thus closing this comparison of Henry Parish's intellectual and moral traits in the two epochs of his life, preceding and following his apoplectic attack of July, 1849, we cannot fail to recognize a most painful contrast, constituting an entire transformation of his personal character.

Perhaps this inquiry has not disclosed gross delusions cherished by this unfortunate man, and proclaimed to every new comer, not yet any 'settled melancholy,' nor, unless the disherison of his brothers because one of them visited him in his extremity, be considered his act, does it disclose any groundless yet persistent aversion to his kindred—any of which conditions would have been readily recognized by all sound thinkers as a subversion of reason. But in that class of cases to which Mr. Parish's essentially and in its primary and leading aspect belongs, the intellectual functions and the affections, instead of being perverted or oppressed as in cases of mania or melancholia, are to a greater or less degree obliterated; and instead of an intelligent, reasoning, moral being, in a state of feverish disturbance or driven from his track of normal action, there is exhibited only a mental wreck, shattered beyond all hope of present or future activity.

Such a wreck was Henry Parish after the shock

July 19th, 1849. He labored under a disease of the brain, of which loss of speech and paralysis of limbs were symptoms, *but by no means the only symptoms.* With these came also loss of reason and paralysis of thought; from that time Henry Parish ever remained a demented man, blinded by obtuseness of perception and devoid of intelligent will.

It is not surprising that many persons who were in the frequent, and for a considerable time, even in the daily habit of associating with Mr. Parish, should have thought him capable of understanding all that was said to him, and of forming rational judgments on matters demanding a considerable scope and force of mind. Physicians whose lives are passed among the insane, constantly remark similar errors of judgment among the friends of deranged patients, as well as among general observers. Even a very considerable familiarity with insane persons does not insure against such misconstruction when the observation is merely casual, and the attention not critically applied to the detection of mental aberration.

Thus non-medical men who, as trustees of institutions for the insane, are brought into frequent but brief association with these unfortunates, often fail to recognize the extent, or even the existence, of very serious alienation, until pointed out or elicited by others.

It is, therefore, not surprising that a much slighter experience with the subjects of mental malady, should disregard indications which would at once arouse the suspicion of a skilled observer.

The Rev. Dr. Taylor "had not the least doubt of the soundness of his (Mr. Parish's) mind," (I. f. 3389,) and probably found in the "uniformly devout and humble manner" in which Mr. Parish received the Holy Communion, (I. f. 3344,) one of the evidences of his mental soundness. But in Mr. Parish's inability to account for the emotion described at I. f. 3334–'6, and in his conduct in throwing back the money to his wife,

in his "contemptuous mode of expression, frowning and shaking his hand towards her," (I. f. 3349,) there is something quite characteristic of insanity. If Dr. Taylor had devoted himself to that kind of scrutiny which alone gives value to the testimony of an observer in these cases, he would not have failed to remark what must strike any inquiring reader of his statement—a glaring inconsistency between these acts of Mr. Parish and that "solemnity of the occasion" by which he (Dr. Taylor) informs us, "Mr. Parish seemed to be always very much impressed." (I. f. 3344.)

Now, to an expert investigating cases of insanity, these last incidents are far more significant than a participation in the Holy Communion. The latter act is common in the large Asylums for the Insane of Europe and Great Britain, and is not rare in similar institutions of this country, though its comparative infrequency is probably owing more to the diversity of denominational preferences among our people, and to absence of chaplains, than to any other causes. In the Asylum under my charge, several patients are habitual recipients of this sacrament, and a candid observer cannot doubt that its administration affords great mental comfort to some unhappy beings whose intellectual faculties may be severely shattered, but whose religious sentiments established by long habit, and now, in their lowered condition, nurtured by these devotional practices, may retain some measure of activity notwithstanding the intellectual disturbance. But the reception of this sacrament by Mr. Parish bears no resemblance to the same act in the class of persons above described. It did not constitute the occasional repetition of a practice commenced when he was in the full possession of health and reason, and continued because of a remaining sense of its nature and spiritual efficacy. Nor, in my opinion, did Mr. Parish's course in this act correspond to what is constantly seen in persons stricken down by physical disease, but retain-

ing a full consciousness of their dependence upon and responsibility to a Supreme Being, and a consequent longing for the consolations of religion.

Rev. Dr. Taylor says that Mr. Parish "was a regular and punctual attendant of his church," but that he did not know whether Mr. Parish "had ever been attached as a communicant, or otherwise regularly admitted member of any religious society." (I. f. 3391, '2.)

I am unable to believe—for reasons similar to those given at length in this paper as to many other of his acts—that Mr. Parish, after his apoplectic attack, was able spontaneously to solicit the administration to himself of the communion sacrament, or that in partaking of the necessary "elements," he did so with an appreciation of the mystical character of the act as viewed by all Christian denominations. This act of Mr. Parish, like many others, was one of compliance with the suggestion of others. In him, it was the eating of bread and the drinking of wine, and nothing more.

Comments similar to those which, with unfeigned respect, I have above made on Dr. Taylor's testimony, might be applied to that of other witnesses whose candor and sincerity of belief in Mr. Parish's mental integrity are equally unquestionable.

There is, however, in the statements of several witnesses, who affirm a belief that Mr. Parish retained possession of his reason, much internal evidence at variance with the verity of that belief, which merits consideration even by a purely medical expert, called to weigh all evidence bearing upon the decedent's state of mind.

William Brown served as attendant to Mr. Parish for a term exceeding three years, and declares thus respecting his mental condition—"I considered, and do consider, that his mind was strong and healthy, *perfectly understanding all I ever said to him.*" (II. f. 1408.)

Notwithstanding this opinion, the witness says,

(II. f. 1333,) "about nine o'clock, Mr. Parish would take a walk with me around the hall out of the front door; look around to see what sort of weather it was; inquire about the stars, and see if the stars were shining, and ask me what sort of a night it was." *How* Mr. Parish asked these questions, and how the witness ascertained Mr. Parish's wish, he explains at II. f. 1545,'4, but immediately after the remarks just quoted, he adds, "if it happened to be a cloudy night, I would tell him the time hadn't come for the moon to make its appearance in that quarter yet." (II. f. 1334.) Nothing in the evidence indicates that Mr. Parish regarded such remark as irresponsive to his sign of inquiry, or absurd, or offensive. The probability is, that he did not regard it at all, and simply because he never made nor intended to make any such inquiry as the witness conjectured; and it is equally probable that he was incapable of distinguishing between a rational and an absurd response to any such interrogatory.

The incongruity between the witness's interpretation of Mr. Parish's sign of pointing, and his own answer thereto, seems to imply that he entertained very much the same conviction himself. In the same way do occasional observers of the insane, who declare that they can discern no irrational idea or singularity of conduct in certain individuals, address them ridiculous questions in a loud tone, and with unnatural distinctness of enunciation, showing that they instinctively recognize what they cannot logically infer. With the same inconsistency do persons occasionally bring a relative to a Lunatic Asylum as a patient, declaring that he is not insane, but that he is wholly changed in feeling and conduct; that "he is no longer the man he used to be," since the invasion of some cause recognized by all medical men as a frequent exciting cause of mental aberation.

Such are the fallacies of limited experience, or of

misconception as to the phenomena of disease, or of friendly bias.

I have not in this inquiry gone into a critical examination of those acts of Mr. Parish, to wit, nodding his head, and making a mark with a pen, which were construed to imply a wish and determination to modify in a very material manner, the provisions of a will drafted by himself, when in sound health, and after mature deliberation, as shown by his conversations with Mr. Havens at the time. (*Havens*, I. f. 769, '70.) The significance of these acts is to be determined in the same manner as in other instances of analogous nature. They were very simple acts, and unaccompanied by any further evidence of a natural and free will. If they were really and truly the reflex of intelligent comprehension and intention at the moment, they conflict not only with Mr. Parish's declarations to Mr. Havens before his attack, (*Havens*, I. f. 769,) but also with his conduct at times toward Mr. Daniel Parish during his illness. (*Simmons*, I. f. 1692, '3 ; *Wingrove*, I. f. 1535, '6 ; *Fisher*, II. f. 1114.)

Believing that Mr. Parish was incapable of such complexity of thought as would be demanded by the revision of a will, framed before the access of his paralysis, I am of opinion that on the occasions of nodding his head to the suggestions thereupon embodied in the codicils to his will, and in affixing his mark to the paper, (as well as in the other instances of attaching his name or mark to documents presented to him for that purpose,) Mr. Parish acted as do many insane and demented persons, upon the suggestions of others, and without understanding, knowledge, and free will, in the sense in which these terms are ordinarily understood. He was not, in my opinion, capable of yielding intelligent assent or dissent to any questions relating to his estate, his will, or his business affairs generally.

D. T. BROWN.

Bloomingdale Asylum for the Insane.

New York City, September, 1857.

OPINION

OF

M. H. RANNEY, M. D.,

PHYSICIAN

TO THE NEW YORK CITY LUNATIC ASYLUM,

BLACKWELL'S ISLAND.

OPINION OF M. H. RANNEY, M. D.

Having examined with care the testimony given in the matter of proving the will of Henry Parish, deceased, it is my opinion that from July 19th, 1849, to the time of his death, he was of unsound mind, and incapable of transacting business understandingly. The reasons for this conclusion are based on the following premises: 1st. There existed in his physical condition an adequate cause for producing mental derangement. 2d. There was, in fact, a perversion of his affective powers, and a great impairment of his intellectual faculties.

These premises hold to each other the relation of cause and effect. A knowledge of the actual condition of the mental manifestations, together with the cause, determines the question.

As to the cause, it is shown that Henry Parish had a predisposition to apoplexy, and several premonitions of its occurrence previous to July 19th, 1849; at which time he had an apoplectic attack, followed by hemiplegia of the right side, and nearly an entire loss of voice, dependent either on paralysis of the vocal organs or impairment of mind, or on both conjoined, which conditions were continuous until the time of his death, a period of more than six years; during which epileptic convulsions occurred at irregular intervals, with occasional non-control of sphincters.

The permanency of these results indicates a very grave lesion of the brain. The probable pathological

changes involved in this lesion are distinctly pointed out by his attending physician, Dr. Delafield. (*See* I. p. 742.) "The clot of blood which was probably left in the substance of the brain in the original attack may eventually have so far involved a large portion of the brain by softening and otherwise, as to produce the effects in question."

The character of the results equally proves the gravity of the lesion. (*See* "*Todd on the Nervous System*," *p.* 125.)

In speaking of hemiplegia, he remarks:—"But sometimes the power of speech is wholly destroyed, even in cases where these nerves have suffered but little or not at all, and the powers of utterance are limited to 'yes' and 'no,' or either of these monosyllables; and this is a sign of very unfavorable portent, as denoting with other symptoms extensive lesion of the brain, superficial as well as deep."

That in the present instance the lesion left a cause of irritation in the brain is conclusively shown by the convulsions that occasionally occurred, the irritation from such cause being transmitted to the spinal marrow through portions of the brain not yet disorganized. Convulsions of this character are usually less frequent as softening advances, the pressure of the foreign substance becoming less immediate on portions of brain yet retaining excitability.

If great disorganization exist in any organ, the functions of that organ will be impaired. The brain forms no exception to this general law, and being the instrument for mental manifestation, it cannot be generally diseased without a corresponding derangement of its functions. (*See* "*Medical Jurisprudence of Insanity, by Ray*," 3*d ed.*, *p.* 130.)

"It can hardly be necessary at the present time to prove the dependence of the mind on the brain for its

external manifestations; or, in other words, that the brain is the material organ of the intellectual and affective powers." In a word, the severity, permanency, and character of the symptoms connected with and dependent on the apoplexy, prove that there existed in Mr. Parish's case a very grave lesion of the brain. From this grave lesion, I infer derangement of mind.

Were not the startling doctrine presented by eminent medical men, witnesses in this case, that "a *post-mortem* examination of Mr. Parish could not have thrown any light upon the nature of his diseases, or the connection of these diseases with the condition of his mind in life," (I. p. 763), this point would be pursued no further. But the advances made in the physiology and pathology of the nervous system during the past few years, forbid any acquiescence in this doctrine. Insanity is no longer considered a direct visitation upon the mind itself as an immaterial entity, but as being dependent on a disease of the brain arising from physical or moral causes. The evidence of this disease is generally accompanied by morbid changes in the brain apparent after death. Modern writers agree that in cases where insanity has existed some years, pathological changes in the brain are usually found. The principal discrepancy of opinion is as to the relation which these pathological changes hold to insanity, but this question does not affect the argument; for, if certain conditions of brain be usually found in mental disease, be they remote or proximate causes, or even secondary phenomena, it establishes the importance and necessity of a careful inspection after death, when the state of mind is to be a subject of judicial inquiry. In proof of these general remarks, I make a few quotations. *Ray's* "*Medical Jurisprudence of Insanity*," *3d ed.*, *p.* 132. "The very same observers who once could find nothing satisfactory in their post-

mortem researches in the brains of the insane, have changed their views, as their field of observation has enlarged, and their acquaintance with the whole subject has been increased with time and practice, so that some have examined hundreds of subjects without finding one entirely free from some appreciable change." ("*Trial of William Freeman*," *p.* 299.)

Dr. Brigham remarks: —"There is nothing mysterious about insanity when considered as a disease of the brain. It is such a disease, and I have never seen a case where after death marks of disease could not be found." ("*The Asylum Journal of Mental Science*," *April*, 1857. *Article*, "*The Pathology of Insanity*," *by Charles Bucknill, M.D., p.* 289.)

"The brain, like every other organ of the body, for the perfect performance of its functions, requires the perfect condition of its organization, and its freedom from all pathological states whatever. Consequently, the existence of any pathological state in the organ of mind will interrupt the functions of that organ, and produce a greater or less amount of disease of mind, that is, of insanity." On this and the succeeding page, Dr. Bucknill explains "the organ of mind" as the gray matter of the cerebral convolutions.

"*Journal of Psychological Medicine*," *Vol.* 7, *article* "*The Medical Treatment of Insanity*," *by Forbes Winslow, M. D., D. C. L. pp.* 211 *and* 212.—"With reference to the first position, I need only refer to the recorded opinions of all the great cerebral pathologists, from the great Morgagni down to modern writers, to establish beyond all question, cavil, or dispute, that in the great majority of cases of death after attacks of insanity, the brain, in some of its important organic elements, or its investing membranes, is found in an abnormal morbid state. It is true that Esquirol somewhat encouraged the doctrines of the spiritualists, by asserting

that in many instances of insanity no change in the nervous matter could be detected after the most careful scrutiny; but that high authority was known to have materially altered his views upon this point at a more advanced period of his life; and his later pathological investigations tended, I think, conclusively to establish that the nervous matter was always found modified in its structure after death from insanity. To this subject I have paid much attention, and have patiently endeavored to ascertain what are the acknowledged opinions of those who have had opportunities of arriving at safe results, and whose names entitle every thing which they have recorded to our profound deference and respect. I have carefully, scrupulously, and zealously analyzed no less than 10,000 cases of the various shades and degrees of insanity, related by Esquirol, Pinel, Foville, Georget, Guislain, Calmiel, Flourens, Bell, Haslam, Prichard, Solly, Burrows, Baillarger, Boismont, Abercrombie, Bennett, and other British, American, and Continental authorities; and as the result of these pathological researches, I have no hesitation in declaring that as the natural effect of the influence of these well-ascertained data upon my own mind, I feel amazed that there ever could have existed a shadow of a doubt as to the physical origin of insanity."

Again, at p. 214, he says: "No morbid change can exist in the hemispherical ganglia without involving, to some extent, the operations of the mind." At p. 219: "I believe insanity (I am now referring to persistent insanity, not those transient and evanescent forms of disturbed minds occasionally witnessed) to be the result of a specific morbid action of the hemispherical ganglia, ranging from irritation, passive and active congestion, up to positive and unmistakable inflammatory action."

"*A Treatise on the Nature, Symptoms, Causes and Treatment of Insanity. By Sir W. C. Ellis, M. D.*" *London edition, pp.* 19 *and* 20.—"In carefully looking over the post-mortem reports of those whose cerebral organization I have examined, I find that in 154 male patients, 145 had disease very strongly marked, either in the brain or the membranes."

See Dr. Webster's report of 123 autopsies on the insane, in all of which either disease of the brain or meninges was found.—"*Psychological Journal of Medicine*," *V.* 7, *pp.* 626 *to* 637 *inclusive—V.* 8, *pp.* 139 *to* 147, *and* 282 *to* 292.

But I will not multiply quotations on this point. In connection with this subject, however, it may not be improper to remark that over 300 post-mortem examinations have been made by me of those previously insane, and I can recall to mind not even one in which some pathological change was not found, either in the brain or its membranes.

It is true that lesions may exist in certain parts of the brain without affecting materially the intellect; to illustrate which I will simply quote from Dr. Bucknill's "*Pathology of Insanity*," *pp.* 289 *and* 290.—"It is also sufficiently proved that the medullary substance of the brain, forming so large a portion of its mass, is merely a conducting medium. Pathological conditions may exist in this white substance, in the cerebellum, the corpora-striata, and thalami, without affecting the mental functions." "Circumscribed effusion of the blood in the white substance of the brain often produces loss of mental function when it first takes place, from the pressure which it exerts on the gray matter of the convolutions. And when the mischief occasioned by this pressure has been removed by the adaptation of the blood in the cerebral vessels to the contents and capacity of the cranium, the powers of mind return, while

those of motion remain injured until the integrity of the torn substance is restored.

"Lesions, or pathological conditions of the conductive or motive parts of the brain, frequently propagate themselves to the seat of the mental functions, and active pathological states of the latter seldom exist without implicating to a greater or less degree the integrity of the former. They are parts of the same organ, essentially different indeed in function, but so intimately connected that pathological conditions readily extend themselves from one to the other both by continuity and by sympathy. All these points of difficulty being admitted, the important fact remains that diseased conditions which affect the mental functions must have their seat in the gray matter of the cerebral convolutions."

With the opinions of so many enlightened and experienced authors before us, it seems impossible to doubt the importance of a post-mortem examination of the brain, where the previous condition of mind is likely to be called in question.

A change in the mind of Henry Parish is conclusively shown by the testimony.

Previous to the attack of apoplexy he was "placid and unexcitable." (*Kernochan*, I. f. 241.) "Very methodical, even-tempered, never showing any change of disposition." (*Folsom*, I. f. 309.) "He was a pleasant, rather a joyous man in his disposition; fond of a frolic, loved lively and gay conversation, any thing that excited a laugh." (*Dr. Delafield*, I. f. 639.) Towards his wife "he exhibited no want of affection; he was always amiable, kind, indulgent, exceedingly; though he was not a man of sentiment." (*Dr. Delafield*, I. f. 642.) "He was mild, gentle, unruffled, yet decided in all matters to which he gave personal attention." (*Richd. Delafield*, II. f. 606.) "He was

a most indulgent husband." (*Richd. Delafield*, II. f. 624.) He was "exceedingly affable and amiable and courteous." (*Henry Delafield*, III. f. 9.) To Mrs. Parish he was "affectionate, kind, indulgent." (*Henry Delafield*, III. f. 9.) "He generally acted on his own judgment, as much so as most men." (*Kernochan*, I. f. 257.) "He generally adhered to an opinion once made up, or to a decision arrived at, and it was not easy to change it." (*Kernochan*, I. f. 257.) His judgment and strength of mind was "much above the ordinary." (*Folsom*, I. f. 310.) "His (*Dr. Delafield*, I. f. 624) mind was good, not quick in perception, not quick in action, in resolve that is." (*Henry Delafield*, III. f. 9.) As to quickness of apprehension, "I should say it was slow, deliberative, and having made up his mind on any subject, was firm and very decisive." (*Henry Delafield*, III. f. 9.)

Subsequently to the attack a complete change was observed in his disposition, temper, and habits. "I very often saw him shed tears." (*Kernochan*, I. f. 241.) "Frequently he was quite irritable." (*Kernochan*, I. f. 241.) He exhibited irritability, manifested "by violent gestures with his left hand, and terminating generally with a push at Mrs. Parish." (*Kernochan*, I. f. 289.) "His nervous system became very much impaired, rendering him irritable, more easily excited than before, and to a certain extent changing his disposition." (*Dr. Delafield*, I. f. 639.) His temper as to cheerfulness "was very constant, entirely changed from its previous condition—habitually unhappy; his countenance always wore an unhappy expression, and it was a very rare thing to see him smile." (*Dr. Delafield*, I. f. 640.) "He frequently betrayed anger, and exhibited it by violent gesticulation, but it quickly passed away." (*Dr. Delafield*, I. f. 642, '3.) "He manifested towards me great irritation, accompanied

by gesticulation, to me so unpleasant that I determined never to thwart his wishes again." (*Richd. Delafield*, II. f. 614.) "He was much more irascible, easily excited, when any thing roused him, and in general of a more irritable temper than I supposed he was before his attack." (*Dr. Markoe*, II. f. 699.) The impairment of his intellectual faculties is shown by an insufficient exhibition of intelligence, and by his conduct. The manifestations of intellect were limited to expressions of countenance, a small number of uniform gesticulations with the left hand, and a few words of utterance.

None of these were such as to enable one to be sure of his meaning, nor was result of searches for his meaning, by the presentation of various questions, ever better than a conjecture, more or less confident according to the temper of the inquirer. Indefinite expressions are ever interpreted according to the susceptibility or spontaneity of those who behold or hear them; and even the most intelligent are liable to mistake the suggestions of their own minds for intelligence in unmeaning expressions. There were opportunities presented in which he might have shown unmistakable evidence of his powers, had he possessed rational intelligence. He was supplied with pen and paper, pencil and slate, and separate letters of the alphabet, with which to form words, and though possessed of sufficient control of his left hand, he yet failed to communicate one intelligent idea. Had he possessed even moderate capacity, his gestures might easily have attained the manifestation of intelligent pantomime; but his gestures were few, unvaried to any great extent, contradictory, and never of definite meaning except in reference to the simplest affairs of domestic life, with which he was very familiar, and for which his animal instincts were sufficient. A small degree of his original business capacity and discreetness would have

prompted him (as was the case with Mr. Macdonald, III. p. 769,) to adopt various other means to render himself intelligible. His conduct evinces not only a perversion of disposition, but also an impairment of intellect. As a few of the various instances, I would refer to his going to his wife's wardrobe in a state of nudity and ransacking it; his method of selecting changes of garments; his persistence in wishing Mrs. Parish to accompany him to the cemetery, although informed that she was sick; his conduct in the carriage at Root's, and his striking or pushing his servants, and even his wife.

Such changes of the affective and intellectual powers dependent on a disease of the brain, constitute the true elements of insanity. The existence and degree of derangement can be determined only by comparing the man with himself—

See "*Maladies Mentales par J. Guislain,*" 1852, *p.* 70. "Il y a, au point de vue du diagnostic de l'aliénation, un *criterium* assez général, que M. Falret a fait très-bien ressortir: c'est le changement qui survient dans les habitudes, dans la conception, dans les idées, dans les actes et les gestes de l'homme devenu aliéné.

Ce phénomène tranche les grandes questions, alors que dans l'appréciation de la maladie tout est encore obscurité: c'est la comparaison de l'homme avec lui-même."

See also *Sir Henry Holland's* "*Medical Notes,*" *p.* 136, *and Ray's* "*Medical Jurisprudence of Insanity,*" 3*d Ed. pp.* 135, 136, 137.

Place all his manifestations together, and give them the most favorable acceptance, excluding the too great latitude of conception and opinion on the part of those who testify, and they show no definite proof of rational intelligence or discreet understanding.

Sufficient tests for determining the condition of the

mind under circumstances of this character, were applied, and the results are unmistakable indications of incapacity.

The various instances in which he is supposed to have evinced intelligence in pecuniary transactions, do not separately nor in the aggregate, show a capacity for transacting business understandingly; while there are concomitant circumstances and manifestations which suggest the idea that the conceptions of the witnesses, in these cases, were mistaken for the meaning of Mr. Parish.

The following items of asserted fact may be enumerated as affording the most plausible impression in favor of his continued sagacity and prudence.

1. His excitement at the presentation of a note by Mr. Wiley, on the face of which there had not been inserted "interest from date."

2. His noticing that a certain check had not been changed.

3. His dissatisfaction when interest was not entered on bonds the day it was paid.

4. His donation to the Bible Society for building, and not for general purposes.

5. His dissatisfaction that $15 was given as a charitable donation to Dr. Taylor, and his after approval of $200 for this purpose.

6. His demand of more security from the Phœnix Bank for the loan of his $200,000 bonds.

7. His appearing to count money and putting it in his pocket.

8. His indications to the carpenter to repair defective roof.

9. His reading, writing, and examination of his accounts.

In respect to all these transactions, assuming that there is no error in the description, and even had they not

been attended by the supervision of others, as in all instances they were, I may briefly say that they do not necessarily involve any complicated mental action, continuity of thought, nor correct judgment. They might all have been performed by one who had been long accustomed to Mr. Parish's business sphere of life, by a simple perception with an assent or dissent.

The imbecile imitates the actions and even the words of others, and the demented, from habit, perform various acts automatically without any definite comprehension or purpose.

In dementia there is rarely, if ever, a complete obliteration of the mental faculties; but they are so enfeebled that although perception, memory, comparison and judgment do exist, they are present in such an impaired state, and a degree so limited as to direct to no perfect or safe conclusions. They do not sustain comprehension or discrimination and a definite purpose.

This was the form of the mental disease of Henry Parish, and it is not common to find even in a lunatic asylum, a grade of intellectual expression so low as that exhibited by the facts in testimony in his case.

The attempt to account for his non-manifestations of mind by discouragement or unwillingness is simply absurd. Discouragement arises from loss of confidence in one's own ability to act, or from the belief that the matter proposed or desired is impossible to be performed. Either of these states of mind in reference to such a process, as that contemplated, with the amount of instrumental availability within his reach, and the long period of time during which such great necessity for action constantly prompted him, would imply either that there was an insane delusion on his part or a real lack of power. With equal propriety the hypothesis might be presented to prove that an idiot could, but would not, manifest ordinary intelligence.

A knowledge of the fact that he did not show such mental power, and the truth of the principle that if it existed it could not remain hidden for so many years, is sufficient to decide the question definitively. The hypothesis that he did understand and could have given definite expressions yet was unwilling, is refuted by the exhibition of social qualities and complaisance, such as drinking wine, &c., with his friends. That he would not exhibit intelligence because of excessive sensibility to failure or ridicule, is not a rational supposition, in view of the fact that lack of intelligible communications subjected him to so many and such great personal annoyances.

If he could read, it proves that the relation between the objective sign and the subjective idea was recognized; but the process of reading may be almost wholly passive after one has well learned the art. The presentation of words previously familiar, may stimulate the mind to recognize and follow them to some degree, with all the apparent intelligence of former life, while there does not actually remain the power to originate, retain, comprehend, and express a single sentence of the simplest structure. That he should seem to read, therefore, cannot be proof of his intelligent and sound understanding. On the contrary, under the circumstances, if he could read and yet was unable to express his wants by writing, it argues a lack of the most important powers of mind, viz: suggestion, continuity of thought, and discrimination.

To recapitulate:—The adequate cause which existed in his physical disease, the perversion of his affective powers, his inability to make an original suggestion, the lack of continuity of thought, and the great enfeeblement generally of his intellectual faculties, which are shown in the testimony, his entire failure to exhibit mind when tests were applied, and the absur-

dity of any hypothesis save that of mental derangement, prove to my mind a want of capacity on the part of Henry Parish to transact business understandingly.

M. H. RANNEY, M. D.

New York City Lunatic Asylum, Blackwell's Island.

Sept. 1*st*, 1857.

OPINION

OF

PLINY EARLE, M.D.,

FORMERLY

PHYSICIAN TO THE BLOOMINGDALE ASYLUM FOR THE INSANE.

AUTHOR OF "HISTORY, DESCRIPTION AND STATISTICS OF THE BLOOMINGDALE ASYLUM FOR THE INSANE;" "A VISIT TO THIRTEEN ASYLUMS FOR THE INSANE IN EUROPE;" "INSTITUTIONS FOR THE INSANE IN PRUSSIA, AUSTRIA, AND GERMANY;" AND "AN EXAMINATION OF THE PRACTICE OF BLOOD-LETTING IN MENTAL DISORDERS."

OPINION OF PLINY EARLE, M. D.

The last will and testament of the late Henry Parish, deceased, being before the Surrogate of the City and County of New York for probate, the validity of the three codicils thereto appended is contested, upon the ground (among others) of alleged incompetency, from mental unsoundness of the testator at the times at which the said codicils were severally made.

The testimony in the case has been placed in my hands, with the request for an opinion, deduced therefrom, touching the mental condition of the testator.

A few preliminary remarks are necessary for an exposition of the principles upon which my investigation has been governed.

Among men in their natural condition, there is an infinite gradation or diversity of mental powers, or the germs of what become such diversity of powers, between the limits of two widely separated extremes. Those extremes are, on the one hand, cretinism and the most abject idiocy, and, upon the other, that intellectual ability which readily comprehends the nature and the phenomena of the concrete, and explores the subtleties of the abstract; which almost intuitively grasps the finite, and then reaches forward toward the infinite; such ability as has been manifested by the discoverers, originators, expounders, and administrators, in physics and in metaphysics, in legislation, jurisprudence, and abstract science.

In this scale of infinite gradation, there is no natural boundary between the sound minds and the minds unsound; and hitherto no artificial boundary has been established.

Deficiencies, obliquities, aberrations, whimsicalities, caprices, and frivolities, more properly belonging to the persons in the inferior portion of the scale, are, one or more of them, so frequently associated with the more ennobling characteristics of intellect and emotion among men in the superior portion, that it appears impossible to fix upon such a boundary.

The mind naturally sound, or belonging to the superior portion of the scale, may, by disease, become impaired or unsound, manifesting perversions, illusions, and delusions, and any or all of the characteristics of the minds at the lower extremity of the scale—the idiots and the cretins.

Among the persons thus affected there is every gradation, every possible form, phase, genus, species, and variety of insanity, from the one extreme of slight impairment, eccentricity, aberration, perversion, or delusion, to the other, of acquired idiocy as degraded, debased and bestial as the utmost depth of congenital idiocy.

So diverse and delicately graded are the characteristics or phenomena of both sanity and acquired insanity, and so heterogeneously are they commingled, that no line of demarcation, either natural, scientific, or conventional, has been drawn between mental soundness and acquired mental unsoundness.

Often, especially in the manifestations of those mental operations which are remote from the borderland between sanity and insanity, that which in one man is generally recognized and received as sanity is, in another man, received for unequivocal insanity. The sanity of the natural buffoon would be insanity in a Bacon or a Newton.

Neither the loss, the impairment, nor the perversion of the perceptive faculties is necessary to constitute insanity; for a large number of the insane still retain the normal use of those faculties. Nor is loss or impairment of memory a requisite element of mental unsoundness. Some of the most obviously and broadly marked insane persons I have ever known, had the most retentive of memories. The loss or impairment of the reasoning faculty is not an absolute condition of insanity. Some mental aliens are exceedingly acute reasoners, their arguments conforming to logical rules. Nor is it true, as has been intimated by a writer upon the subject, that the perversion of intellect consists always in their arguing from false premises. There are many exceptions to this. Some, less logical, exhibit that style of reasoning by which a child not unfrequently confounds and stultifies his wiser parent. Judgment, in the broad signification of the word, is not necessarily destroyed in insanity. A sound, prudent and wise judgment upon the ordinary every day affairs of life, in the sphere in which he moves, is sometimes manifested by a person of very seriously impaired or perverted mind.

The insurmountable difficulties thus set forth being in the way, no accurate definition of insanity has ever been devised. It necessarily follows that there is no test for it, no *experimentum crucis* which, in equivocal cases, may be applied with certainty of a positively accurate result, or demonstration, such as in the results of the exact sciences divests of all doubt the solution of a problem or a proposition.

Insanity, in the extreme grades of all its species and varieties, is sufficiently obvious to every one upon but slight investigation. But it follows from what has been written that, where it is not so apparent, it cannot be proved that one man is necessarily insane, or

necessarily sane, because another man, who manifested some of the same or similar peculiarities, was so.

As a consequence of the foregoing considerations, every case of alleged unsoundness of mind must be tried, primarily and chiefly, by itself. Where it may be done, as in this case, the condition, conduct, and mental manifestations of the person at the time of the alleged unsoundness, must be compared or contrasted with his condition, conduct, and mental manifestations antecedent to that time, or at a period at which it is acknowledged that his mind was sound.

The relationship between the present condition and the past condition of the person, as deduced from data derived from all the channels of mental development or manifestation, is the test of sanity or insanity which nearest approximates to certainty. But there are antecedent, attending, or collateral facts or circumstances which also render assistance in elucidating the subject, and in determining the ultimate decision.

Henry Parish, the testator, was a retired merchant residing in the city of New York. It appears in evidence that when in health he was "a sound thinker," his "mind good;" that he was "of sound judgment, slow to decide," "even-tempered," "placid and unexcitable;" that he manifested "great self-respect, and strict observancy of decorum, great courtesy and affability;" and that he was "very fond of his friends and of social intercourse with them."

He kept an office in that district of the city which is most occupied by men engaged in the largest mercantile and financial transactions. He was "in the habit of keeping a supervision over and daily examining his books and accounts," (*Folsom*, I. f. 1100,) generally being in his office from 9 o'clock A. M. until 3 o'clock P. M., "but frequently until 5 or 6 o'clock P. M." Most of his evenings were passed at

his club, where he generally remained until a late hour. On the 19th of July, 1849, he was attacked with apoplexy, immediately followed by hemiplegia and loss of speech. Other particulars in relation to him, which are of value in this inquiry, will be mentioned hereafter.

In prosecuting the investigation of the condition of Mr. Parish at the time of his alleged mental unsoundness, in conformity with the principles or plan abovementioned, I shall pursue the following course:

A. Relationship of the testator's condition subsequently to the attack of the 19th of July, 1849, to his condition antecedently to that attack.

1. Disposition; feelings and emotions.
2. Intellectual manifestations.
3. Habits and customs.
4. Will; force of character.

B. Antecedent, attendant, and collateral facts and circumstances.

1. Hereditary predisposition.
2. Disease symptomatic of cerebral lesion.
3. The nature of the acts the validity of which is contested; that is, the tenor and spirit of the testamentary codicils.
4. Acts or acquired peculiarities in which the testator resembled the insane.
5. Treatment of the testator by his family.
6. Language of other persons in reference to the testator, in the course of his illness.
7. Opinions of witnesses in regard to the testator's mental condition.

A. Relationship of the testator's condition subsequently to the attack of the 19th of July, 1849, to his condition antecedently to that attack.

1. *Disposition; feelings and emotions.*

According to the testimony of Messrs. Wiley, Folsom, Kernochan, and others, the testator, prior to the attack, was remarkably calm, equable in temper, unexcitable—a complete master of his feelings and emotions. After the attack, as shown by these and other witnesses, he shed tears upon very slight occasions, was highly irritable, irascible, and subject to sudden paroxysms of anger. Mr. Folsom saw him shed tears "three or four times in front of the office"—"sometimes thought it was pain, weakness of mind, or hysterical;" and many witnesses testify to similar evidence of inability to control his feelings and emotions.

His increased irritability was exhibited not in private alone, as towards the several members of his household, but in public also, as at the Market of Case & Vandewater, Washington Market, and in Broadway, in front of Mr. Root's. That his irritation sometimes amounted to an explosive outburst of anger, is evident from the testimony. In presence of Mr. Wiley he insisted upon having a check drawn after his wife had told him there were not sufficient funds on deposit to meet it; and, as the witness avers, "appeared to get furiously mad.' (II. f. 38.) When urged not to go to Greenwood, because, as he was told, Mrs. Parish was not sufficiently well to accompany him, "he manifested towards me," says Major R. Delafield, "great irritation, accompanied by gesticulation to me so unpleasant that I determined never to thwart his wishes again." (II. f. 1768.) Mr. Case testifies that upon

one occasion, when the carriage of the testator was about to leave the market, Mr. Parish rose from his seat and attempted to "catch hold" of Mrs. Parish's bonnet. (I. f. 1894.) Mr. Austin says, in allusion to the times at which he was showing poultry to Mr. Parish, as he was seated in his carriage, Mr. Parish "would be very mad at me," and at one time "took his cane and flurried it around and scared me.' (I. f. 1910.) In front of Mr. Root's, Mr. Parish "got into a violent passion, and the coachman was afraid he would break the windows; and so," adds the witness, "was I." (Wingrove I. f. 1523.) It is testified that at several times Mr. Parish pushed Mrs. Parish; and the testimony tends to show that at two or three times he struck her.

Such changes in the sphere of emotion as are here exhibited, may not, of themselves, and standing alone, be proof of impaired or disordered intellect, but they greatly augment the probabilities of such impairment or disorder. They are frequently among the first symptoms or signs of insanity, and often accompany it throughout its course. It is difficult to believe that a man constituted as was the testator, and occupying his social position, could he impelled, by the force of his feelings or emotions, to make so humiliating a public exhibition of himself as did Mr. Parish in some of the cases above mentioned, unless his mind were very considerably impaired in the sphere of intellect, as well as in that of emotion.

2. *Intellectual Manifestations.*

The operations of the intellect find expression mainly through the media of speech, writing, and pantomimic gesticulation, with facial expression. It be-

comes necessary to examine the condition of the testator in these several respects.

1*st.* *Speech.*—The only words alleged to have been uttered by him, in the course of his illness of more than six and a half years, are "yes," "no," and other sounds apparently intended for these words; "oh!" "ah!" "oh, dear," "oh, Got," "Why, yes," and, once only, a word or sound which, by Mr. Bryson and Mr. Dunning, who heard it, was interpreted "her." The "yes" and the "no," if ever perfectly enunciated—and Dr. Markoe (II. f. 2076) testifies that "yes" was distinctly uttered for many of the first weeks of the testator's illness—were so during comparatively a very short period. The "oh, dear," appears not to have been a frequent exclamation, and was enunciated "oh, thear:" while the "oh, Got," and the "why, yes," were heard but a few times.

Besides these, a sound spelled "nin, nin," by some of the witnesses, was very frequently uttered.

Of all these expressed sounds, articulate and inarticulate, those which are of the most importance in the communication of mental processes are "yes" and "no." These have a wide range of utility. What dependence, then, is to be placed upon them as employed by the testator? Mr. Kernochan says, "The sound was always very much alike; (I. f. 847;) Mr. Wiley, that he never heard him make any sound which, by itself, would be taken for "yes" or "no;" (II. f. 92, 93;) and Dr. Markoe, that his negative was at first "nan, nan," and became "more approaching niah, niah;" and that he sometimes used the same sound, "niah, niah," for "yes." (II. f. 2077, '8.)

The sound "nin, nin," was generally interpreted, by the witnesses, as a call for the attention of some person present at the time it was uttered; or as indicative of a desire to express some idea or thought, and

a wish for the person addressed to ask questions or make propositions, to which he might assent or dissent. If such were the intention, the sound was often used superfluously. Some of the witnesses intimate that it was uttered at every pause, however slight, in the conversation—if "conversation" it may properly be called; and Mr. Tileston says that he used it "almost constantly." (II. f. 522.) This sound was confounded with the sounds supposed to have been expressive of affirmation and negation. Mr. Wiley says that the sounds were "always about the same." (II. f. 91.) Dr. Taylor gives the signification of both interrogation and affirmation to "yah," but says the intonation varied with the difference of meaning. (I. f. 3383.) Ed. Clark, (*II. f.* 2155, 2156, 2158,) in a space of little more than one page of the printed evidence, attributes *three* significations, —interrogation, affirmation, and negation,—to "neay." This equivocal meaning of the sounds, and their confusion one with another, is fully testified to by Dr. Markoe, who says not only, as has already been mentioned, that Mr. Parish's negative "niah, niah," was sometimes used for "yes;" but also that he used 'nin, nin,' and 'niah, niah,' "somewhat interchangeably." (II. f. 2079.) Hence, it is evident that "nin, nin" was employed to express what was received as interrogation, affirmation, and negation.

From all this it necessarily follows that no confidence could be placed in these sounds, as definitely expressive of any mental process. Such, it appears, was the opinion of George S. Simmons, who, after having been the attendant of Mr. Parish ten months, says that he understood nothing from his sounds, (I. f. 1715;) and nearly the same is implied by the language of Dr. Delafield, his family physician, who intimates that he judged of his meaning as much by his countenance as anything." (II. f. 3153.)

2*d*. *Writing*.—It appears in evidence that the testator wrote, with a pencil, and upon the fly-leaf of a book, a series of characters, (*Exhibit No.* 264, *III.*, *p.* 701,) which, as a whole, were "interpreted 'wills.'" Dr. Markoe says that when he attempted to persuade the testator to write, he wrote with a pencil upon a slate "nearly the full words 'Henry Parish,' several times—he never wrote the full word 'Parish' *** he wrote sufficient of it to make it intelligible." Several signatures of "H. Parish," and "Hy. Parish," are also in evidence, introduced as his autographs. One witness, Fisher, "thinks" that Mr. Parish once wrote the word "horse;" but this witness's testimony upon various other points is positively contradicted by other witnesses.

The words and characters here designated, are the extent to which it is alleged that the testator wrote, in the long period of his disability. The characters first mentioned, *i. e.* those which were interpreted as *wills*, are rudely and irregularly made, the lines being of nearly uniform size, and the whole series so large that a rectangle enclosing seven and a half square inches of surface would scarcely enclose them. The strongest evidence that the signatures professedly the autographs of the testator, were written by him, is the fact that they are subscribed to attested business documents. The witness to them died prior to the death of the testator, and therefore we have no explanation rom him. Two witnesses, Mr. Bleecker and Mr. Parsons, think that the hand, when some if not all of them were written, was held and guided by the hand of some other person. The rudeness of the characters first mentioned, would lead to the same inference.

Even if we grant the authenticity of all the words and characters in question, still, as those words and characters are but few, and as many gravely demented

persons can write not only as well, but far better, the testator *did not* manifest much intellect by writing in the course of his illness. His *ability* for such manifestation will be discussed in another place.

3*d*. *Pantomimic Gesticulation and Facial Expression.*—From the nature of the testator's disease, his gesticulation was necessarily more limited than that of a person enjoying the free use of all his limbs. But, from the testimony in evidence, it would appear to have been much more limited than one would expect from a person laboring under Mr. Parish's physical disabilities, yet retaining the normal condition of his mental faculties.

The principal, if not the only motions testified to as expressive of intellect, are, first, the nod or downward movement of the head; second, the shake, or horizontal rotation of the head; third, pointing with the fingers or hand; and, fourth, elevating the arm, the fore-arm flexed, with some of the fingers extended, the others closed. A few other motions are mentioned, but they are chiefly indicative of emotion.

As to the first two motions—those which are conventionally employed for the expression of affirmation and negation—there is a considerable discrepancy among the witnesses in regard to their ability to understand the testator in the use of them. At the interview in which Mr. Folsom asked him what his wishes were, in the event of his decease, respecting the disposition of the estates on Union Square and Wall street, the responses were a nod or a shake of the head, *according to the verbal form of the same question.* Mr. Kernochan (I. f. 863) and Mr. Folsom (I. f. 1144) testify that when they went to Mr. Parish's, carrying the will, and asked him if he wished to keep it, he both nodded and shook his head. Mr. Nicholas G. Ogden says that when the testator and his

wife were at the Phenix Bank, and Mrs. Parish had stated that Mr. Parish wanted something, he asked Mr. Parish various questions, and received "no answer but unmeaning motions," (I. f. 1475;) and that when Mrs. Parish suggested the trunk, and he asked Mr. Parish if that was what he wanted, he "made first an affirmative motion of the head, and then a negative motion to the same question." The testator, during a portion of his illness, frequently went to market; and Mr. Case says, "We never could find out rightly what to send him," "we never could tell what articles he did choose in particular at all." (I. f. 1891, 1893.) So they sent to his residence whatever they "thought he had been in the habit of buying before, and Mrs. Parish would send back what she didn't want." Mr. Jones says that at his first interview with the testator, at the time he carried the samples of cloth for pantaloons, "when Mrs. Parish pointed out one or two—showed them to him—he looked at them and nodded his head; then he looked at them again and shook his head; * * * * * this was tried two or three times." (III. f. 1640.) So no decision was made. At the second interview, when a sample was presented to him, with the question if he liked it, "he would nod his head, then shake his head," (III. f. 1645,) and the selection was finally made by Mrs. Parish.

This testimony exhibits an utter inability clearly to express even affirmatives and negatives, or approbation and disapprobation, by the movements of the head. Persons whose mental powers are unimpaired, and who possess the unembarrassed use of the muscles of the head, can express affirmation and negation as distinctly, as definitely, as positively, by motion, as by the verbal monosyllables usually employed for those purposes.

But, notwithstanding the tenor of the testimony

quoted upon this point, there is so much of an opposite import, that, in my apprehension, it cannot be doubted that, on some occasions, and within a limited range, the testator used the signs or motions in question, for the same purposes as they are used by others; with the same intent, and with some degree of intelligence. He must have been mentally below the standard of any but the lowest grade of idiotic mind not so to have used them.

The pointing with the hand, or fingers, I conceive to have been employed with very much the same degree of intelligence and of uncertainty as to his intent, as the motions just discussed.

The fourth motion was very much used, generally in connection with the sound "nin, nin." It was considered, by most of the witnesses, as inexpressive of itself, but simply as an adjunct to the sound. In three or four instances, however, it was regarded as indicative of *number*, from the number of fingers which were extended. At most, this gesticulation had but an exceedingly restricted power in the manifestation of intellect. The reader of the testimony is left in doubt whether it, and the sound "nin, nin," by which it was accompanied, were really used with any clearness of intelligence and intent, or whether they are not rather to be classed among those senseless habits which the demented are so frequently accustomed to form.

Facial Expression.—There is a great diversity of testimony in regard to the expression of the testator's countenance. It varies, in divers grades, between the extremes, vivacity and stolidity, as well as between the other two extremes, almost constant cheerfulness or placidity, and habitual gloom. It is evident that, to some extent, he retained that tension and mobility of the muscles of facial expression which assist in the development and communication of the operations of

the mind. Yet, even with this, and with that degree of use of the other means of expression which it appears, from the foregoing considerations, that he still possessed, Mr. Gasquet, one of his intimate friends through many years—although he asserts that "there were moments when he seemed to look intelligently," —says, "I could not understand him at all." (II. f. 2039.)

Great stress has, by some, been placed upon the intelligent expression of Mr. Parish's countenance. Many persons so demented as to be entirely incapable of prudently disbursing ten dollars, still retain an intelligence of expression which, with no other means of deducing an opinion, might easily mislead a beholder into the belief of their mental soundness. This might result, in Mr. Parish's case, from the fixedness of long habit during half a century of sound-minded life.

From all the evidence touching the points thus far discussed under the head of intellectual manifestations, I arrive at the conclusions that the testator retained the usual physical means or powers of communicating the intellectual processes, or their results, to but a very limited degree; that he used those means less frequently and less extensively than would be expected from a person of sound mind laboring under his bodily disabilities; that he frequently employed them vaguely, indeterminately, confusedly—the same one often even antithetically—and without having any intent to impart thereby definite ideas and thoughts.

There are other considerations by which light may be thrown upon the inquiry into the intellectual condition of the testator. Of these, it is proposed to notice the following:

1. The power of suggestion.
2. Ability to read.

3. Attention while other persons were reading.
4. Transaction of business.

1. *The power of suggestion.*—The extreme disability of intellectual manifestation by the testator, is well described by one of his physicians. Dr. Markoe, in answer to the question, "had he the power of communicating any idea, in reference to any subject or object not then before him, and to which he could point?" replies; "Not directly—no, sir." (II. f. 2118.) From this assertion is clearly to be derived the following significant and important conclusion.

Beyond the limited sphere of objects, or of concrete subjects "before him, and to which he could point," all intellectual operations or results whatsoever which have been attributed to Mr. Parish, must have been suggested to him by some other person, previously to any indication that they were his.

The involved idea or thought must have originated in another mind, and have been presented to him for his approbation or disapprobation, assent or dissent, acceptance or rejection. Hence, the authenticity of those operations or results, as being primarily those of the testator, must be a matter indeterminate and doubtful; and the uncertainty and doubt are greatly increased by the indecisive and inconstant manner in which, as has been shown, he employed the methods of affirmation and negation. Even on the supposition that he had the ability to form a just conception, i. e. accurately to apprehend and comprehend whatever was suggested or proposed to him, still, there is no evidence that he may not have assented to, or dissented from, many propositions previously unthought of by him. If he could not so comprehend, the probabilities of assent to or dissent from previously unthought of subjects, are greatly increased. Thus the force of

nearly all of the most important testimony given in evidence of his mental soundness, is seriously impaired.

That a man of Mr. Parish's normal intellectual capacity, and his education ; with his firmness, his energy, and his enterprise ; upon being paralyzed in the organs of speech, and in the limbs of the right side, but retaining his sight, the use of the limbs of the left side, and the former powers of his mind, would, even in the course of a few days, find or devise some means of suggesting his wishes and his thoughts to the persons around him, is a proposition so reasonable, so consistent with what we know of human powers and resources, in short, so nearly self-evident, that it would command an assent almost, if not entirely universal. Thus, the witness Mr. Macdonald, testifies, in reference to himself, that, after he was attacked with hemiplegia, it was his first desire to communicate his ideas to the persons around him, and that he persevered "in some form or other," until he succeeded. Resorting to "signs," he found them insufficient. He asked for a book, intending to make himself understood "by pointing to the words and letters." An alphabet was then procured, and he used it. He thinks that he attempted to write, upon "the afternoon of the first attack," and is "certain" that he did "within three or four days." He succeeded in writing his name with his left hand, "four, five, or six days after the attack ;" and this, although his left side was weakened "to a great extent," by the paralysis. Aside from the fact that he did not write, there is no evidence that the left limbs of Mr. Parish were at all affected. There is direct testimony that they were not.

The signature of Mr. John F. Delaplaine (*Exhibit* No. 261, III.), written with his left hand, "a very few days after his attack" with hemiplegia of the right

side, appears as if made without much difficulty, and bears a striking analogy, in all its prominent individual characteristics, to the two signatures written anteriorly to the attack. Two cases, other than those mentioned in the evidence, in which the persons, to use the language of my informants, "write beautifully" with the left hand, recently came to my knowledge. One of the persons alluded to has hemiplegia of the right side.

I suppose that any good—or even fair—penman, can write his name legibly with his left hand. Why, if paralyzed only upon the right side, and retaining his mental ability, should he not continue so to write it? If he does not so continue, why shall we not infer that his mind, *at least to some extent*, is unsound? As, in connection with this subject, in the case of the testator, there appears to have been a disposition, in some quarters, to resort to a species of transcendental reasoning which I cannot regard as sound in physiology, pathology, or psychology, the following remarks, how trite soever may be the thoughts therein involved, may not be inappropriate.

Mind is recognized only in its manifestations. Hence by its manifestations alone can it be judged. These being idiotic, the person must be esteemed an idiot: and just in proportion as they are defective—the physical ability of manifestation remaining—must the mind be regarded as impaired. It will not do to say —True, these manifestations are idiotic, but nevertheless the mind itself is all right, perfectly sound.—This is mere hypothesis, conjecture, an assumed conclusion. For aught that is known, the psychic element of our being may, in its abstract nature, be equally sound in all men, the idiotic and the insane, as well as the sane. No one can disprove an hypothesis to that effect. We have no positive evidence that it is not so; neither

have we any that it is so; for, in judging of its condition, we cannot go entirely behind the corporeal.

Mr. Parish lived more than six and a half years after his attack, without finding or devising any method of communicating his thoughts. Furnished with materials of various descriptions for writing, he refused, after a few attempts, to use them. An alphabet upon a sheet of paper being placed before him, he neglected to avail himself of it; another alphabet, of very large letters, upon separate cards, being furnished, he treated this, so far as appears in evidence, with the same disregard. These facts, particularly when we take into view the numerous and powerful motives which, if his mind be in a healthful condition, must impel a man of Mr. Parish's wealth and position in society, to restore, if lost, the means of interchanging thought between himself and those with whom he may associate, are, of themselves, sufficient to prove, beyond a doubt, a mental incapacity amounting to dementia. Such, indeed, would be the general deduction from the premises.

Mr. Parish either *could* not write, or, having the ability, *would* not. The result of his attempt, of which we have the most positive evidence,—the characters which were interpreted "wills,"—is so rudely executed, and so entirely ambiguous, as to force the conclusion that his ability to write was no greater than that of a child when first beginning to make characters simulative of letters. That he could hold a pen, and move it, is shown. Why, then, should he produce this scrawl, indicative of no definite idea in his mind? Why, but that his mental faculties were as much depreciated from their normal standard, as this series of characters is inferior, in its power of clearly conveying any idea, to his writing prior to the invasion of the disease by which he was disabled.

But Dr. Markoe thinks that, retaining the ability to

write, he would not write; that unwillingness "was the essence of the trouble." (II. f. 2109,) To this it may be answered, that if a man with Mr. Parish's normal mental ability, with his vast pecuniary interests and relations, and his many social associations, should, through "unwillingness" to make the effort to communicate, thus isolate his mind from the external world during a period of nearly seven years, and, by so doing, subject his friends to all the labor, the annoyances, the anxieties, the embarrassments, and the difficulties to which the persons surrounding the testator were subjected by his failure to communicate, then, as it appears to me, that "unwillingness" must be a positive obstinacy, indicative of delusion, or perversion of mind, which would justify his friends in placing him and his interests under a legally appointed guardian. The escape proposed to the proponent by this theory is from *dementia* to *mania*, from Scylla to Charybdis.

Did the failure of the testator to use the alphabet originate, likewise, in "unwillingness?" If it did so originate, then the remarks just made are here of so much the more forcible applicability as the effort required for the collocation of card letters into words is less than that of writing with the left hand. As a physical effort, it is of the very slightest kind; as a mental one, it is facile and amusing to the most child-like mind possessing any healthful relish for order, or the establishment of harmony in the relations of surrounding things.

2. *Ability to Read.*—The testimony introduced in reference to the testator's ability to read, is conflicting. If his vision was sufficiently good—and it appears that it was competent to the discernment of ordinary print—I perceive no reason excepting his failure to write and to use the card letters, to doubt that he could perform what may be termed the mechanical process of reading,

Persons who have learned to read well, upon losing their intellectual ability, even to a low grade of dementia, can generally read in this manner. The testator might have understood the words, as words, but that he could comprehend the ideas, unless very simple, conveyed by the language, that he could reflect upon them, analyze, compare, or "mentally weigh" them, and thence arrive at inferences, deductions, or conclusions, as he might have done previously to his attack, there is no evidence, at least I can see none in the case, which, in my opinion, is at all equivalent in force to the evidence of an opposite import.

It has been suggested, in connection with this subject and that which was last under consideration, whether it may not be possible, with mental abilities otherwise intact, to forget the normal relation between the idea and the characters used in conveying that idea. What is this "normal relation?" In respect to words, it can, in my view, consist solely in the condition that the word shall fully involve, and accurately convey the idea. I can conceive of no abnormal relation other than that which consists in the opposite condition,—that the word does *not* fully involve and accurately convey the idea. Thus, a man may have the idea "hat," and may intend to impart that idea; but if, in so intending, he use the word "cheese," he does not convey it. The above remarks are applicable to letters as well as to words.

A person may know the signification of a word when he reads it, and yet, when he wishes to express that signification, at another time, he may be unable, from temporary failure of recollection, to recall the word. This is of constant occurrence with persons of sound mind, and there is no doubt that, in cases of mental depreciation, the phenomenon may be still more apparent. But that a person long accus-

tomed to writing may read with comprehension, and yet be unable for years, in even a single instance, to form any word with letters, is a conjecture so unreasonable as to repel every shade of credence. At any rate, so far as known by me, the proposition awaits, for its reception as truth, the first particle of any thing like evidence.

3. *Attention while other Persons were Reading.*—Upon this subject, as upon the next preceding, the testimony varies. Wingrove says, he "paid very little attention to my reading of the paper to him;" (I. f. 1500.) Simmons, "He was generally in the habit of sleeping after breakfast, during the time of reading the paper," (I. f. 1698,) and James Clarke, "He was generally asleep, or looking out of the window, —never minded it." (I. f. 1738.) On the contrary, others assert that he listened with apparent interest. That he had the ability to understand some of the simple ideas which may have been expressed in that which was read to him I cannot doubt. Otherwise he must have been below the lowest conceivable condition of abject mental imbecility, where any intelligence remains. Further than this, the same remarks may be made, on this head, as in reference to that which it is alleged that he read himself.

4. *Transaction of Business.*—Outside the walls of his dwelling, the testator transacted comparatively little commercial or financial business of any considerable pecuniary magnitude after his attack. Neither abroad nor at home, so far as appears in evidence, did he at any time in the course of his illness engage in any negotiation or operation of the kind alluded to, without the presence of another person who was acting as his attorney.

In the minor business of life, we have seen by the testimony of Mr. Case, Mr. Austin, and Mr. Jones, that

in general he utterly failed to make his wishes understood. In the more important matters of the will, and the trunk containing his valuable papers, it has also been shown that Mr. Kernochan, Mr. Folsom, and Mr. Nicholas G. Ogden were unable to comprehend his desires or his intention; Mr. Folsom further testifies, that when the testator and his wife came to the office door, with business papers, Mr. Parish "would frequently or almost always take up the package, but would fail to separate or select the required paper." "Mrs. Parish," he continues, "would pick it out and hand it to me," (I. f. 1180;) and again, in allusion to the same interviews, "we always made great efforts to find out what Mr. Parish wanted, but never, to the best of my memory, has Mr. Parish ever been able to convey his wishes to me to my satisfaction." (I. f. 1181.)

The demand made to Mr. Tileston for the individual security of the Board of Directors of the Phenix Bank, if not unprecedented among capitalists, was inconsistent with his former practice, at least in the similar negotiation mentioned in the testimony of Mr. Withers.

Mr. Wiley testifies that the testator, at the time of the loan of $20,000, persisted in requiring that a check should be drawn, after he had been told "that they had not so much money in bank," even until "he appeared to get furiously mad." No testimony shows whether he was, or was not, accustomed, before his attack, thus to over-draw upon his bank account; but I suppose it not to be the custom, nor as considered a sound business practice, in New York.

It is certainly remarkable that Mr. Parish, with his wealth, and his regular, methodical, and long confirmed business habits, and accustomed as he was to having his accounts kept with considerable minuteness of detail, should have ceased to have them so kept, and to

introduce a new form of keeping them, soon after his attack.

The testimony as to the manner in which, and the extent to which the testator was concerned in the management of his estate, in the privacy of his own residence, is so inconsistent with the larger part of that which portrays his transactions when more in public, as well as with much of that which regards his other habits, and the other evidences of his mental condition when at home, that it appears impossible to reconcile them. It is easily to be conceived that persons long associated with a man conditioned as was the testator; continually obliged to propose, to suggest, to inquire; compelled, by the necessities of the case, virtually to perform most of the mental processes for both parties of the intercommunication, might, unsuspectingly, sometimes mistake their own thoughts for his thoughts, and even acts essentially their own—being first openly suggested by them—for acts essentially his. Evidences of something like this are not wanting in the testimony. They are most conspicuous in that of the coachman, Edward Clark. The evident unconscious talking with himself, in the narrative of ostensible intercommunication with the testator, at their morning interviews, (II. f. 2147, *et seq.*,) would be ludicrous, if occurring in connection with a less serious subject. Minds of greater intelligence are not free from some of the laws which govern minds of an inferior grade.

Mr. Henry H. Ward testifies that when Mr. and Mrs. Parish came in their carriage to the front of his office, for the investment of funds, Mr. Parish selected, from the notes and securities exhibited to him, such as he wished to purchase. But Mr. Ward thinks that Mrs. Parish looked at the paper exhibited, and that "it is highly probable" that she said something, or

asked some questions about some of it. (II. f. 1929, '30). Under the circumstances, no great degree of intelligence, sagacity, or judgment was requisite to the selection. Doubtless his mind was *habitually* imbued with favor to that which Mr. Ward would offer him. Habit, a slight degree of memory, and the other aids mentioned were sufficient for the purpose.

I once had a female patient so entirely demented that she knew not the names of the persons with whom she had been associated for years; did not even recognize them, at any time, as persons whom she had ever met previously to that time; and who, while walking in the gallery of that ward of the asylum in which she was placed, said she was 'walking up —— street,' mentioning a street frequented in her early life; yet who would correctly repeat long articles of prose which had been committed to memory prior to the invasion of her mental disorder. The act of the testator, in making the supposed selection of paper as above-mentioned, requires a memory no better than that of this patient, and a mental capacity but little, if any thing superior.

Mr. Bryson says that the testator made his mark upon two transfers of stock without being shown upon what part of the paper to place it. (II. f. 226, 331.) If the fact is accurately stated, it merely represents an act which might be done by a person with mental faculties greatly impaired.

Several gentlemen have testified to their belief of the testator's ability to transact business,—some of them specifying the particular business which they, with the usual assistance which he received, had done with him in the course of his illness; and others conveying an idea of more general, or broader ability. No one of these gentlemen has said, or intimated, that he would have intrusted the negotiation or transaction

of any important commercial or financial matter of his own, to the testator. A question seeking an answer upon this point, might, I think, very pertinently have been proposed to them.*

Former habit, a comparatively small degree of memory, and the constant presence of an interested person, to suggest, to prompt, to interpret, to explain, and generally to execute, might enable a man of very seriously impaired mind, to transact, in the method in which he did it, all the business which was transacted by the testator between the day of his attack, in 1849, and that of his death, in 1856.

Had his intellectual capacity remained intact, who can doubt that, under all his disabilities, he might have performed much of his out-door business alone; and not only so, but that, had he—as we assume that he would have done, if his mental powers were perfect, —prepared himself in some way to communicate his

* A suit to set aside a contract, on the ground of the alleged mental unsoundness of one of the parties thereto, was tried before the Supreme Judicial Court, sitting at Lenox, Massachussetts, in May, 1856. I was called to hear the testimony, and give an opinion deduced therefrom. One of the witnesses was a gentleman, well known as one of the most successful financiers in the city of New York. He testified that at a period subsequent to the date of the contract, he requested the party whose mental condition was in issue, to show him the boundaries and surveyor's monuments between the estates of said party and himself; that they went over the grounds together, and said party pointed out, with perfect readiness and accuracy, the boundaries and monuments, and conversed intelligently about them. As this was the only subject upon which the witness was called to testify, nothing was elicited from him, in either the direct or the cross-examination, which evinced impairment of the mind of the said party. Meeting the gentleman afterwards—but before either counsel had commenced his argument,—I remarked to him that, notwithstanding his testimony, I had testified to an opinion that the party was in a condition of dementia. Said he—"Had they but asked me if I would have taken the man's paper, believing it to be legally valid, at the time he showed me the boundaries and monuments, I should at once have answered—'No;'" or words to that effect.

The Court set aside the contract for reason alleged.

wishes and thoughts, he might have continued his business habits, unassisted by an attorney, and in his old sphere, almost as fully as before.

3. *Habits and Customs.*

After the apoplectic attack, the testator lived so monotonous a life, moved in a sphere so comparatively limited, and was so constantly under the surveillance, and, to some extent, the direction of other persons, that it might almost be said that his former habits and customs were all superseded by the routine of a few new ones. This is true to an extent which, as appears to me, is incompatible with the supposition that his intellectual powers retained their normal integrity. There was nothing in his physical disability which need have prevented him from frequently going to his office, and to other places of business, unaccompanied except by his valet; nothing absolutely requiring him entirely to relinquish his old associations at the club; nothing necessarily detaining him, throughout his nearly seven years of invalidity, from church.

It is consonant with what we know, to believe that the millionnaire, limited in his mental resources, and attached to his business associations, if disabled as was Mr. Parish, but still vigorous in intellect, would, even more frequently, if possible, than before, resort to his place of business; that he would make considerable effort, if necessary, so to do; and if his store or office were difficult of access to a person so disabled, that he would at once procure another, which might more easily be reached.

The testator relinquished, quite unnecessarily, if his mind were sound, one favorite custom to which, on the condition just mentioned, he doubtless would have clung with still greater tenacity than before, for

the purpose of relieving the tedium of his comparatively solitary and routine life. Prior to the attack, according to Mr. Gasquet, he was very fond of his game at whist; and, as testified by Messrs. Webb, English, and Emmet, he frequently played that game at his club, to which, it appears, he was accustomed to repair nearly every evening; and, agreeably to the testimony of Mr. Henry Delafield, he had card-parties at his own house. Subsequently to the attack, he never went to the club; never had card-parties at his residence; never played whist or any other game; never attempted so to play; and was never even invited to take a hand at cards when his family were playing. In my view, this important change is very strong evidence of mental impairment. If the intellectual ability and the desire to play had remained, the physical obstacles could easily have been surmounted.

4. *Will; force of Character.*

From the tenor of the evidence bearing upon the subject, it appears to me that the chief power of the will, which remained to the testator after his apoplectic attack, was merely the impulsive force of irritation and anger; not that calm, self-reliant and effective energy which demands and commands not only personal respect, but obedience to the mind's known behests. Thus he could frighten Mr. Austin, but he had not that force of character which would enable him to go to his store alone, in contravention of the orders of another person. By "gesticulation," he brought Major Delafield to a determination never again to thwart his wishes; but he could not make his coachman drive to the store from Mr. Root's, nor did the force of his presence, in his own library and kitchen, when he

was attempting to give directions for breakfast, prevent a call of the roll of breakfast edibles, instead of the immediate mention of buckwheat cakes.

B. Antecedent, attendant, and collateral facts and circumstances.

1. *Hereditary Predisposition.*

In the whole range of physiology and pathology, nothing is more positively established as a truth than the transmission of disease, or a predisposition to disease, from parent to child. Tuberculous, arthritic, and other diatheses are thus very frequently perpetuated. All forms of cerebral disease accompanied by insanity, are far more frequently found among the descendants of persons who suffered from those diseases, than among any equal number of persons descended from parents who had not so suffered.

It appears in evidence that the father of the testator was subject to attacks of cerebral congestion, in the last of which he died. (Kernochan, I. f. 902.)

2. *Disease symptomatic of Cerebral Lesion.*

In the case of the testator, there was a remarkable combination of diseases the symptoms and signs of which are indicative of encephalic lesion.

Prior to his departure for Europe, as asserted by Mr. Kernochan, he had two or three attacks of determination of blood to the head. (I. f 902.) When at Baden Baden, in the summer of 1843, he had a similar attack, but, in his own language, (III. Exhibit No. 235,)

"more severe;" and, in the language of his wife, (III. Exhibit No. 133,) "frightful."

"During the latter years preceding his attack," (the one next to be mentioned,) says Dr. Delafield, "he had several slight seizures threatening apoplexy." (I. f. 2036.) Whether this allusion includes the attacks already mentioned, or not, is not shown.

On the 19th of July, 1849, he was again seized in like manner, the attack now being of such severity as to constitute apoplexy. This was immediately followed by hemiplegia of the right side, and destruction of the power of articulate speech, entire for a short period, and, as has been shown, nearly entire throughout his subsequent life.

Commencing in the autumn of 1849, and extending over nearly the whole period of his subsequent life, but becoming less frequent as time progressed, a paroxysmal, convulsive disease affected him. This was evidently epilepsy. Dr. Markoe speaks of it as such; and James Clarke, in describing the paroxysm, used the following language: "trembling, choking, frothing, and foaming at the mouth—black in the face."

Dr. Wilkes, who visited him in consultation upon his impaired vision, about the beginning of the year 1852, says that he then had traumatic amaurosis. (I. f. 222.)

This succession and combination of disorders emanating from the great nervous centre, shows that there must have been very considerable cerebral disease; and, as the hemiplegia and loss of the power of speech were permanent—the paralyzed leg alone improving to some extent—it also shows that at least an important part of that disease was organic.

In cases of apoplexy followed by paralysis, there is generally some mental impairment. It differs in degree in different cases, the extremes being some slight peculiarity, upon the one hand, and utter de-

mentia, upon the other. Even in cases where recovery ensues after a duration more or less protracted, a defect of memory, or some eccentricity of mental manifestation is generally observed, growing less and less apparent as convalescence is being perfected.

The tendency of epilepsy is perhaps always towards depreciation and perversion of the mental faculties. Large numbers of epileptics are found in many of the institutions for the insane. As there was no *post mortem* examination in the case of the testator, the source of the epilepsy is merely to be conjectured. But, as that disease supervened upon the apoplexy, it is not unlikely that the former originated in the lesion which caused the latter.

We have, then, from this catalogue alone of central nervous disease under which the testator suffered, much reason to infer that there was serious mental impairment. The conclusion is not absolute—it is not a necessary deduction from the premises; because, in cerebro-psychic pathology, there are few, if any, rules of universal application. Still we have here causes very adequate to the effect which is supposed to have been produced.

3. *The Nature of the Acts the validity of which is contested; that is, the Tenor and Spirit of the Testamentary Codicils.*

After making his will in 1842, the testator lived nearly seven years without adding to it, or in any way modifying its conditions, although he talked with Mr. Havens about making some modifications. As originally executed, it remained at the time of his attack with apoplexy and paralysis. Within the first five years next following the date of that attack, three

codicils were appended to it. These codicils not only alter it, but reverse or abolish some of its most important provisions. I allude to the revocation of the appointment of Daniel Parish as one of the executors, "and the gift of ten thousand dollars to him, as executor;" to the revocation of the thirteenth article, by which Daniel Parish and James Parish were made residuary legatees; and to the introduction, into one of the codicils, of a clause making Susan Maria Parish the residuary legatee.

No cause is shown in the evidence which, as I apprehend, could possibly have suggested, in the mind of a man such as the testator appears to have been, and provoked to execution, so important a change in testamentary provisions and bequests. No cause of alienation of feeling towards James Parish is even hinted at. The letters of the testator to Daniel Parish, written when the former was in Europe, in 1843 and 1844, show that he and Daniel were then upon terms of the most kindly and friendly intercourse. No alienation is shown after his return from Europe, and prior to the attack. The only alleged cause for alienation after the attack, is the fact that Daniel Parish went into the sick chamber of the testator, unbidden and in contravention of the known wishes of the testator's wife. But the manner in which the testator received his brother Daniel at a subsequent interview, gives no reason to believe that such alienation existed. If it did exist, so far as appears it must have been from an insufficient cause, and hence must have originated in one of those whims or caprices which often produce a change of feeling in the insane towards those persons who have been among their most intimate and best friends.

If the testator's mind had been unimpaired, it is more likely that, having determined to make changes

in the testamentary disposition of his property, he would have made a new will rather than alter the one already made, as it was altered. He hardly could have failed to perceive that his physical condition was such as to give rise to the suspicion of mental disorder or defect, and that, under these circumstances, were the will left as it has been left, there was a prospect that his large estate would almost inevitably become involved in litigation. To the issue of a legal contest, he could not have been willing to subject the estate; and from the labors and annoyances of such contest, he would have endeavored to preserve his nearest relatives.

4. *Acts in which the Testator resembled the Insane.*

First.—It is intimated that the testator ate voraciously. Mr. Kernochan says that he sometimes ate "with rather too good an appetite;" Wingrove, that "eating seemed to be his predominating passion;" and James Clarke, that "he was very ravenous for dinner." But Dr. Delafield says, "In his best health, before his attack, he took a great deal of food." Of the relative quantity taken, before and after the attack, nothing is said in the testimony. A large proportion of the insane, especially those who are demented, eat rapidly, and in inordinate quantity. The gratification of his palate, as is evident from numerous assertions in the testimony, was one of the principal enjoyments of the testator, during his illness; and for the attainment of this end he set at naught the advice of his medical counsel.

Second.—In his irritability and irascibility he resembled many of the demented, and a large proportion of the epileptic insane.

Third.—The combined act of putting his fingers

into his mouth and making a guttural sound, as testified by Messrs. Wiley, Gasquet, and Clarke, is strikingly similar in its nature to the acts of the demented.

Fourth.—The same may be said of the repetition of the sounds of affirmation and negation. One of the witnesses says that "yah" was generally repeated, and "nah" "four, five, or six times;" and nearly all who allude to the subject attest to this kind of repetition.

Fifth.—The abundant use of the sound "nin, nin," may be placed in the same category.

The determination of the testator to have the window-blinds open, when he slept in the room under the conservatory and nearly on a level with the street, thus exposing his room and its occupants, at an early hour in the morning, to the passers by; and his conduct as portrayed by Mr. Campbell, (III. f. 1879,) when the witness saw him in front of the house, holding upon the leader which conducts the water from the roof, "looking up," and "uttering a cry," indicate a serious impairment of mind. When he was in health, his justifiable pride, his self-respect, his respect for others, his sense of propriety, all would have revolted at the idea of acts like these, and his reason would have dictated abstinence therefrom. It seems impossible that he could have perpetrated them and yet retained any considerable degree of his former even purely intellectual faculties.

5. *Treatment of the Testator by his Family.*

Several facts appear in evidence which betray a consciousness of the testator's mental impairment in the minds of the members of his family, though perhaps this consciousness was instinctive rather than the offspring of reflection. These are:

First.—The testator was rarely left alone with his relatives, friends and acquaintances out of his own household, and generally, in the exceptional cases, was so left only for a few moments.

Secondly.—According to the testimony of Thomas Wingrove, (I. f. 1523,) he was not permitted to go to his store or office alone; that is, without the company of some person other than his valet and his coachman. There is no evidence that he ever did go thither, so unaccompanied, except on Sundays.

Thirdly.—He did not ride alone, excepting at times, upon the Sabbath, and then the route taken was chiefly in the most unfrequented parts of the city, and the time during the hour of morning service at the churches.

Fourthly.—He rarely carried money. William Brown, his valet for more than three years, says, "I have never seen him with money in his pocket." (II. f. 1422.)

Fifthly.—When Mr. Folsom, in the course of an interview with the testator and his wife, proposed the trial of block-letters, to enable the former to communicate his thoughts, Mrs Parish, as is testified by Mr. Folsom, said to Mr. Parish, "What impudence in Mr. Folsom to propose any such thing." (I. f. 1149.) The remark is such as might be made to a petulant child; and I can account for it only on the supposition that it was suggested by a consciousness that Mr. Parish had become so like a wayward child that he would be offended at a proposition to resort to means so trivial. If Mr. Parish's mind were at that time what it once had been, he must have felt—as any rational and reasonable person in his condition would feel—thankful to any one who might suggest an effectual method, how humble or insignificant soever, of relieving him from one of his greatest embarrassments.

Sixthly.—It appears that the testator was particu-

larly fond of buckwheat cakes, and that his medical adviser was opposed to his eating them. He was accustomed, before retiring at night, to call—in his way of calling—the attention of his wife or the cook to the subject of breakfast for the following morning. It appears to have been understood that he always wanted cakes of the kind just mentioned; but when suggestions were made to him "in the library," William Brown testifies that different kinds of food were mentioned, "always omitting, if possible, buckwheat cakes." He would be irritated until they were named. Another witness, (Fisher,) whose testimony would not be referred to in this place were it not, in essence, corroborated by others, says that when the testator went to the kitchen, upon the occasions alluded to, the cook would ask him "a great many questions, to which he said no; when he came to these cakes he smiled and said 'yes.'"

Seventhly.—Although, as has been shown, he enjoyed and frequently practised card-playing, previously to his attack, yet subsequently he was never asked to play when other members of the family were engaged in the game.

Eighthly.—The shoes purchased for him during his illness cost, as says Mr. Sammis, "about ten shillings," or one dollar and twenty-five cents per pair. (III. f. 1618.) There is no evidence of the cost and kind of shoes worn by him prior to his illness, but there are many reasons for the belief that they were very different from those just referred to.

The facts contained in these eight clauses, trivial as some of them might appear at first view, throw more light upon the question at issue, than is derived from many of the matters in evidence, which, in some respects, are of far greater magnitude, but which are not susceptible of so positive verification.

6. *Language of other Persons in Reference to the Testator in the Course of his illness.*

Theodore Austin says that after the testator "flurried" his cane in the carriage, he (the witness) told Mrs. Parish that Mr. Parish "was crazy, or not in his right mind." (I. f. 1927.) Mr. Folsom asserts that at the store, in presence of the testator, his wife, Mr. Daniel Parish and Mr. Kernochan, he said to Mrs. Parish, in allusion to Mr. Parish, "If he should ever come to his mind," &c. (I. f. 1152.) He also testifies that he said to Mrs. Parish, at the interview with herself and Mr. Parish, on the 25th of August, 1849, "I consider Mr. Parish to be of unsound mind, and incapable of transacting business." (I. f. 1126.)

Mr. Kernochan states (I. f. 854) that on the 18th of August, 1849, Drs. Johnston and Markoe thought that Mr. Parish's mind was not in a condition to transact business. Both of these physicians, however, testify that they do not recollect that they expressed such an opinion.

Mr. Campbell says that he mentioned, soon after its occurrence, the scene in which the testator had "hold of the leader" of water from the roof, "was looking up" and "uttering a cry;" and being asked if, when he mentioned it, he also expressed his judgment that Mr. Parish was an idiot, his answer is, "yes, sir, I have said that." (III f. 1897.)

Thomas Wingrove says, (I. f.1575) "I explained to Mr. William Delafield, as early as the third day of my being in the service, that if I thought he was engaging me to attend or wait upon a gentleman like Mr. Parish, I would not undertake the situation on any consideration. I said so, my belief being that Mr. Parish was much astray."

It appears that the remarks here quoted were made in all seriousness, and under the full belief that what is therein expressed was true. Hence they are of no inconsiderable value in the resolution of the problem to be solved.

7. *Opinions of Witnesses in regard to the Testator's mental condition.*

Mr. Kernochan, who "knew Henry Parish fifty-six years," was for many years one of his partners in business, and "in the constant habit of visiting at his house," says, in allusion to the whole period of the testator's illness, "I didn't think he knew much, * * * I didn't think he had much mind." (I. f. 889.)

Mr. Gasquet, during eleven years a partner of the testator, and "on terms of intimate acquaintance with him," and who visited him from seven to ten times, annually, on several of the years of his illness, says, "I should have judged that he was not in a state of mind to conduct any business. * * * * I should say that his mind could not have been active and clear." (III. f. 2011.)

Mr. Folsom, who kept the testator's accounts twelve years, and who testifies that he had "a friendly intimacy" with him, says, "I think through the whole period (of his illness) he was not far removed from an imbecile." (I. f. 1185.)

Mr. Wiley alone, of all the persons immediately connected, as partner or accountant, with the testator in business, testifies in a manner implying belief of his mental soundness. He says, "his mind appeared to be well-regulated as to business he was familiar with, or had been familiar with in good health." (II. f. 71.)

Mr. N. G. Ogden, speaking of the testator at the

time of the interview relative to the delivery of the trunk, says, "I could not satisfy myself whether he was of sane mind, or knew what he wanted, or not." (I. f. 1474.)

Of the five men who were employed as nurses or valets of the testator, George S. Simmons (I. f. 1717) testifies, in reference to his mental condition, "I should not think it perfect;" Thomas Wingrove, (I. f. 1556, '7,) "I considered Mr. Parish very much astray in his mind;" and James Clarke, "I think his mind was not right," (I. f. 1752). William Brown, on the contrary, says, (II. f. 1751,) "I considered his mind strong and healthy, perfectly understanding all I ever said to him." The fifth of these witnesses (Fisher, II. f. 993) says, "I always thought, and think still, his mind was sound;" but Mr. Barber testifies (III. f. 1593) that this witness told him that Mr. Parish was not in his right mind."

Mr. Case, who was acquainted with the testator before the attack, and who subsequently, at his market, saw him many times, when asked for his opinion says, "I never could make him understand anything at all—of course I could not tell what he thought." (I. f. 1896.)

Mr. Austin, likewise previously acquainted with him, and who often saw him, after the attack, at Washington market, thinks he "was not in his senses, or right mind." (I. f. 1914.)

Mr. Sammis says, (III. f. 1621,) "I got the impression the first time that he came to the store, that for some cause or other he was not capable of doing business, and I never lost that impression;" Mr. Jones, "I consider he was imbecile," (III. f. 1649 ;) and Mr. Mulligan, "I think it (the testator's mind) was rather in a state of disorder." (I. f. 1886.)

Mr. Sammis had no inter-communication with the testator, although he saw him at the carriage in front

of (the witness's) store, a considerable number of times. Mr. Jones had but two interviews, and those only in reference to the selection of cloth for garments; and Mr. Mulligan, but one. The opinions of these witnesses are, therefore, of less value than that of those who here precede them.

Other than Dr. Delafield, the family physician of the testator, four physicians who had visited him professionally in the course of his illness, have given their opinions of his mental condition.

Dr. Dubois says, "the condition of his mind appeared to be clear, sound." (II. f. 190.) Dr. Dubois was called to see the testator specially in consultation upon the disease of his eye, and had no intercommunication with him upon any other subject. A large part of the demented patients in the institutions for the insane could have answered intelligently upon such a disease.

Dr. Wilkes says, "I think his mind was clear and capable of transacting the ordinary avocations of life." (II. f. 229.) Dr. Wilkes questioned him only in regard to his vision, his diet, and the condition of his bowels; and all the questions proposed, excepting those upon the subject first mentioned, were answered by Dr. Delafield. Hence, the objection to the opinion of Dr. Dubois is applicable to that of Dr. Wilkes.

Dr. Johnston says, "he appeared to understand simple questions regarding his health." (II- f. 413.) The same may be said of a large majority of the inmates of the hospitals for the insane. Dr. Johnston cautiously adds, "I cannot say that he might not have understood questions equally simple regarding other affairs."

Dr. Markoe, speaking of the testator's mind, says, "with the exception of the last few weeks, I believe it as sound—the last week or two I should say." (II. f. 2031.) In justification of this opinion, Dr. Markoe

testifies as follows: "he possessed memory, perception, comparison, judgment, and, in fine, all the ordinary faculties of the mind," (II. f. 2029;) and in proof of this, or of his power of spontaneity, Dr. Markoe says, "he could call the attention of anybody that was near him, spontaneously and without suggestion; an act showing perception, memory, judgment, and many other faculties of the mind, which he could thus give expression to spontaneously." (II. f. 2124.)

If the mere ability to call the attention of a person present be evidence of the existence of ALL those mental faculties, and consequently of soundness of mind, then there is little need of hospitals for the mentally alienate, and nineteen-twentieths of the persons now at those institutions are illegally and improperly detained.

Mr. Prime's opinion is, that "he knew what he was about." (III. f. 5.) This expression, in the case before us, is ambiguous. In the literal meaning of it, it is true of most demented persons.

Mr. Webb says, "I do not entertain a doubt that his mind was as clear in relation to ordinary intercourse, as at any time previously." (II. f. 669.) This is indefinite. As the phrase "ordinary intercourse" is usually understood, Mr. Webb's language might be truthfully applied to some of the most whimsical of demented patients.

Mr. Grinnell, (II. f. 1945, '6,) and Mr. Tileston, (II. f. 456, '7, '8,) believe, as appears from their testimony, that the testator, by sounds and motions, could give comprehensible expression to abstract thought. In all the testimony there is no evidence of such ability. On the contrary, all that bears upon the subject is of import directly opposite; and, as has been seen, Dr. Markoe expressly declares that the testator had not that ability. Thus, one of the most important premises whence the two gentlemen mentioned, (Messrs. Grin-

nell and Tileston,) derived their opinion, is taken away. If they were mistaken in the premises, why may they not have been in the conclusion?

Some of the gentlemen who testify more or less strongly to a belief of the testator's mental soundness, had but little opportunity for observation. Mr. Donaldson and Mr. Gibson each had but one interview with him; Mr. Webb but two short interviews in the street; Mr. Bryson but two, and those upon the one subject of a transfer of stock; and Mr. Dunning, who condenses his opinion into the word "sound," had no intercommunication with him, but was present as a witness at the two interviews between him and Mr. Bryson.

Several witnesses to whose opinions no allusion has been made, and who had considerable—some of them extensive—opportunity for intercommunication with the testator, have testified, with a diversity of expression, to the general proposition of his mental soundness. Some of these gentlemen were intimately connected, by social alliance, with the testator. I well know that there are cases in which the mental ability of a person is regarded, by his casual acquaintance, as much inferior to what it is known to be by those who are in daily social intercourse with him. Yet, friendships long-enjoyed, and the interest and sympathy which are among its results, are not without their influence; and, in the present case, there is such a mass of testimony, derived from various sources, tending to the demonstration of the fact that the testator's mind was impaired, that I am forced to the belief that those gentlemen were mistaken.

With this exposition of opinions, and the comments upon them, I leave this portion of the evidence. The other matters so fully set forth in the testimony, are sufficient for the purpose of this investigation. A

brief *résumé* of them, or of the inferences derived from them, following more nearly than in the foregoing investigation, their natural order, is as follows:

1. The father of Henry Parish died in an attack of cerebral congestion.

2. Henry Parish had several attacks of cerebral determination; and, at length, on the 19th of July, 1849, apoplexy, immediately followed by hemiplegia of the right side, and loss of speech.

3. During a large part of his subsequent existence he was subject to epileptic convulsions; and, at one period, had symptoms of traumatic amaurosis.

4. During the whole period of his life, after the apoplectic attack, some of his emotions were easily excited. He frequently shed tears, was irritable, irascible—sometimes yielding to violent explosions of anger.

5. The principal energy of his will appears to have rested in those paroxysms of anger; his force of character having become so far impaired that his servants did not hesitate to annoy him by evasions, and to act in contravention of his wishes.

6. He uttered but few sounds, and those which were apparently intended for words, were mostly so employed that no confidence could be placed in them as expressive of a determinate wish or thought.

7. He sometimes used the motions of the head expressive of affirmation and negation, in the same indefinite and indeterminate manner.

8. Although retaining the use of his left hand, he did not learn to write, and of the results of his few attempts, the only one that is fully authenticated is so imperfect as to be entirely unintelligible.

9. Large letters, upon cards, being furnished for the purpose of communication, he failed, so far as appears, to use them.

10. Thus, for more than six years, and until his decease, "he had not the power of communicating any

idea, in reference to any subject or object not then before him, and to which he could point."

11. He not unfrequently utterly failed to convey an opinion, a wish, or a preference, even when this might have been done by pointing, or by the usual affirmative or negative motion of the head.

12. He never attempted the transaction of any important pecuniary business without the presence and, almost invariably, the assistance of another person, acting as his attorney.

13. He did not go even to his own office, on business days, unaccompanied by that attorney.

14. From a period but shortly subsequent to his attack, the former mode of keeping his accounts was entirely abandoned.

15. In one negotiation a condition was required inconsistent with his former practice; and in another, a paper was drawn under circumstances incompatible with the principles usually followed by mercantile men.

16. He forsook his usual places of resort—those of business almost entirely—his club, the houses of his friends, and his church, absolutely.

17. His card-parties at home were discontinued, and his favorite game of whist wholly abandoned.

18. In several respects, his acts and his acquired peculiarities resembled those of some classes of the insane.

19. Some of his acts were so entirely repugnant to the self-respect, sense of propriety, and judgment of a gentleman such as he had been, that they can be explained only upon the supposition that his intellect was seriously impaired.

20. The course pursued with him by the persons in whose charge he was, or by whom he was imme-

diately surrounded, appears, in several respects, to have been based upon a consciousness that his mind was impaired.

21. No single act or mental manifestation is proven, which, under his circumstances at the time of its occurrence, is inconsistent with serious mental impairment.

22. Some of the witnesses expressed their opinion, during his life, that his mind was unsound.

Comprehended by these clauses, there are so many evidences of mental unsoundness, extending over all the sphere of means by which emotion and intellect are manifested, and over all the relationships of the testator to the world around him, that I arrive at the following conclusion:

It is my opinion that the mind of Henry Parish, from the time of his attack, on the 19th of July, 1849, until the day of his decease, was in that condition of unsoundness, or impairment, which is technically termed dementia; and that this unsoundness or impairment, was of such extent as to disqualify him for the execution of the codicils in question, or the transaction of any important business.

PLINY EARLE.

Leicester, Mass., *September*, 1857.

APPENDIX.

Since my opinion upon the mental condition of the late Henry Parish, deceased, was written, my attention has been directed to an article headed by the proposition, "To what degree are the intellectual faculties affected in cases of apoplexy and hemiplegia?" and published in the September issue of the "New York Journal of Medicine." This article appears to have been suggested by the case of Henry Parish. It would be a work

of supererogation to notice it in this place, if the arbiter in the said case were practically conversant with insanity;—if by long association with the insane he had learned not only the powers of which their disease has deprived them, but more especially *the powers which it still has left.* This not being the fact, I take the liberty to raise the following objections against the applicability of the contents of that article to the case now in issue.

1st. *Nearly all the cases mentioned in it were observed and recorded "for a different purpose" than that of ascertaining the mental condition of the patients.*

The author of the article appears to think that this fact clothes those cases with especial value, as authority. Upon this point I cannot agree with him. The allegation or the intimation that the best method of ascertaining the truth upon *one* medical subject, is to resort to the recorded investigations upon *another* subject, is a doubtful compliment to the sagacity, skill and judgment of the medical profession.

2d. *Being observed and recorded "for a different purpose," it is not even to be presumed that the observers always, or generally, directed their attention to the mental condition of the patients, with that close and persevering scrutiny which is essential to a correct decision.*

Most of those cases were undoubtedly observed under the common opinion quoted in the article aforesaid, from Valleix: "It is rare that a moderately severe attack of sanguineous apoplexy does not produce a certain degree of alteration of the intellectual faculties," &c., and the observers, looking mainly toward their principal aim—the morbid anatomy of the disease—did not question that opinion, or seek at all to investigate its claims to truth. No better evidence of this is needed, than the fact that Andral, in the fifteen pages of comments which follow his seventeen cases of apoplexy, makes no allusion whatever to their mental condition.

3d. *Those cases were not observed by experts in mental disorders.*

I claim for men long engaged in the specialty of insanity—that which I freely grant to the surgeon, the obstetrician, the oculist,—superior knowledge and superior skill in the diseases to the observation and treatment of which they have been devoted.

4th. *In a large proportion of the cases no mention is made of the mental condition of the patients.*

In the cases thus defective, the supposition that some mental impairment existed is as justifiable as its opposite.

5th. *In some cases classed among the mentally sound, such soundness is doubtful.*

Of one patient it is said, "she lost her speech, but preserved, *to a considerable degree,* her intellect;" of another, "after a time he recovered

sufficiently to *write for one of the weekly journals*, although *his memory became defective, and his mind frequently confused ;** of a third, "the patient was not cured, though she had *recovered her senses ;* she lived some time without being able to articulate a word;" and of a fourth, "it was reported in Paris that he was mad, but I (Portal) *saw* that it was less a loss of reason than of the power of expressing himself."

It does not strike me that in these cases absolute integrity of intellect is shown to have existed.

6th. *The entire absence of strict analogy between these cases and the case of Henry Parish ; and, in the larger part of them, the comparatively few points of resemblance.*

In some of these cases consciousness, at the invasion of the disease, was *not* lost, in that of Henry Parish it *was* lost; in many of them speech was unimpaired, in his it was nearly destroyed; in several of them, even of those classed among the sound in intellect, death occurred at periods varying from two days to twenty-five days after the attack, in his, life was protracted more than six years; a considerable proportion of them terminated in recovery, his only in death; in some of them the attack was comparatively slight, in his, severe; in some of them the patient learned to write, he did not; some of them used a great diversity of gesticulation for the purpose of expression; his gestures were few and inexpressive. Other points of non-resemblance might be mentioned; but these are sufficient.

7th. *In some of the cases of loss of speech, it is assumed that the intellect was sound because the patients themselves were unconscious of its impairment.*

The patient's opinion of his own mental condition, especially in diseases generally or often accompanied by impairment of the mind, is a very singular criterion to be adopted by a medical man. If applied to the inmates of the hospitals for the insane, those institutions would soon be vacated.

8th. *In most of the cases accompanied by loss of speech, the inference of mental soundness cannot, in my view of the subject, be drawn from the premises.*

An intelligent expression of countenance, the apparent comprehension of conversation upon simple topics, and the ability to reply, by

* The first series of italics in this case, are those of the author of the article: the second are mine. The author remarks that a man who could thus "labor for his support by writing for the weekly papers, may be esteemed to have still possessed a fair share of intellect and energy." I am not disposed to deny the proposition, but I recollect that periodicals are or have been published at three, if not more, of our institutions for the insane; that a very considerable proportion of their contents were written by the patients; and that many of the articles of this class would do no discredit to "the weekly journals." A moderate library of works written by the insane might be collected.

signs, to questions, and to perform, when requested, some trivial act, are received as evidences of an unimpaired intellect. Thus, in one of Dr. Clark's cases, it is assumed that the patient's mind was sound because his "countenance was intelligent, he heard and understood all that wa said to him, would do as directed, assisted in taking care of the patients and administering their medicine." Apparently as a positive demonstration of the intellectual integrity of this man, it is related that, upon request, he went to an adjoining room, and from a number of instruments of the use of which it was supposed he was ignorant, selected one, *which had been described to him*, and returned with it. A large majority even of what are called "demented" patients, are able to perform errands more difficul than this, more intricate, and requiring a greater degree of intellect. This is verified daily in the hospitals for the insane.* In the schools for idiots, at Paris and Berlin, I have seen many of the pupils engaged in exercises which, in their requisitions of intellectual power, throw entirely into the shade this *test* act of the patient of Dr. Clark: and it is no unjustifiable presumption to aver, that if those pupils were suddenly deprived of speech, still retaining all their other faculties, they would be able to exhibit all the evidences of mental capacity which, in most of the cases in the article in question that were observed in this country, are relied upon as proofs of unimpaired mind.

We need no more convincing evidence that an undue estimate of mental power has been placed upon the expression of the face, and the pantomimic gestures, in the cases accompanied by loss of speech detailed in the article under notice, than the fact that the author arrives at the following very strange conclusion: "It would seem as if the absence of speech in similar instances must be looked upon as *prima facie* evidence of clearness of understanding!"

As no one will attempt to deny that there are apparently perfect recoveries from all the effects of apoplexy, so all must acknowledge that there are divers degrees of mental as well as of physical lesion, where those effects are permanent. Each case must be judged upon its own facts. Mind repressed by corporeal impediments struggles for release, and eagerly seizes upon every available means of expression. So far as it *is* expressed, clearly, definitely, and unmistakably, so far it may be accepted and judged; but if its manifestations exhibit but one measure of capacity, we have no right thence to attribute to it a twofold or a threefold measure. In a few of the cases included in the article under notice, the patient gave unequivocal proofs of restoration to a large amount of mental ability; Henry Parish, so far as is proven, exhibited no positive evidence of an intellect superior to a low grade of dementia.

* A remarkable case in point is related in the American Journal of Insanity, vol. iv., p 163.

As in the former examples, so in the latter case, the mental power must be judged of according to the evidence in each instance respectively.

There is nothing in the article in question which changes or in any way modifies my views, as expressed in the foregoing opinion.

P. E.

October 22d, 1857.

OPINION

OF

LUTHER V. BELL, M.D., LL.D.,

PRESIDENT OF THE MASSACHUSETTS MEDICAL SOCIETY,
ETC.

(LATE PHYSICIAN AND SUPERINTENDENT OF THE McLEAN
ASYLUM FOR THE INSANE, NEAR BOSTON.)

OPINION OF DOCTOR BELL.

I have entered upon the consideration of the questions involved in this case, under the best lights afforded me in a professional experience of nearly thirty years; two-thirds or more of which time has been passed in the care and treatment of those mentally disordered, while at the head of the oldest and one of the largest of the curative institutions for the insane in the country. During this period I have been very frequently called upon to appear before the courts of justice, and afford the aids of my experience in the solution of medico-juridical questions touching the condition of the mind.

It has been my privilege to approach this inquiry unembarrassed by any acquaintance with the parties in interest, and indeed, up to a period when my judgment was settled and recorded, without knowing on which side my professional assistance had been solicited.

There are two prominent divisions under which the consideration of Mr. Parish's competency to make a valid testamentary instrument naturally presents itself to my mind.

1. The true value of the facts testified to by, and the opinions thereupon, of the various witnesses in favor of and adverse to such competency, and the possibility of explaining and harmonizing differences in opinions so conflicting.

2. The exact significance of the prominent and essentially undisputed fact, that Mr. Parish ever after his apoplectic fit, July 19, 1849, if capable of communicating the operations of his mind to others at all, did so in the difficult and indirect method of assenting to, or negativing by certain imperfect gestures, and nearly inarticulate sounds, such propositions as were made to him orally, and in one or perhaps more than one instance by something written and placed before him, as if for his perusal and reply.

In endeavoring to weigh the testimony for and against his competency, it will not be my province to expose or even measure defects of credibility where they might be believed to exist, or to strike a balance between conflicting witnesses. The province of the medical expert is rather to select and consider such facts and opinions as are within a strictly professional purview. In doing this, it is not necessary to make a complete analysis of all the testimony which may have such a bearing. It is obvious, that if enough is selected to illustrate the principles on which statements apparently contradictory are reconciled, and the precise opinions of witnesses, based upon their observations, shown to be well or ill-founded, a just conclusion may be approximated. If, for example, it can be shown in one unequivocal instance, that Mr Parish's supposed signs for *yes* and *no* did not necessarily imply a corresponding assent of his understanding, it would not be of essential importance to apply the same test to every other instance presented in the testimony, in which the same signs are described and like inferences drawn from them.

My intention has been to select the most prominent and pertinent facts, on both sides, and to reason from them, leaving out the entire testimony of many of the witnesses, and considerable portions of that of

others, as affording nothing which could aid the medical witness in coming to an opinion.

That numerically, those who regard Mr. Parish as of sound mind, are in the majority, is a fact which I have considered of little moment, in view of the circumstance that the minority is too large, and comprises too many having the best opportunities of forming opinions, to permit the suspicion that the last class were influenced by partiality or caprice.

Beyond a certain point only, can the evidence either of one or the other side of a question like this, be cumulative. A hundred witnesses who thought they could understand Mr. Parish, and a hundred who declare that they could not understand him at all, would leave the uncertainty to be solved just as great and no greater than if there were only ten on each side. And any explanation which might harmonize the opinions expressed by the twenty satisfactorily, would apply with equal force to those of the hundreds.

In weighing the character and significancy of the testimony in favor of or adverse to the mental soundness of this testator, it is natural to look in the first instance, for that of the medical *experts*. The physicians who were in attendance on Mr. Parish during his protracted illness, were Drs. Delafield, Wilkes, Dubois, Johnston, Wheaton and Markoe; of this list Dr. Johnston does not profess to have seen him under circumstances such as would warrant the expression of an opinion as to his mental competency. And Dr. Wheaton, a venerable army surgeon, appears to have been rather the friend than the medical adviser of Mr. Parish.

It is not possible to avoid noticing the fact, that no one of his medical attendants appears to have been peculiarly conversant with mental diseases. Indeed, I think no one of them would have been received under

the practice of the Massachusetts courts, as qualified to express opinions at all in such case as to a testator's mental condition, for no one of them brought himself in any degree within the category of a medical *expert* in mental affections.

In view, also, of the fact that three, perhaps all four of these gentlemen, have a right to claim an eminent position in another professional department, *i. e.* the specialty of ophthalmic diseases, a branch most distinctively specific and widely separated from the theory and practice of dealing with the mental affections, it may not be deemed irrelevant or disrespectful to say, that a body of physcians, presumptively less fitted for the appreciation of such a case, can scarcely be imagined. A consultation of insane hospital physicians in a delicate and complicated disease of the eye, would hardly be more incongruous.

Considering also, that it was well understood by the parties in interest on one side, and, indeed, entered into the acts and suggestions of the counsel who drew the codicils, that the capacity of the testator would eventually come before the courts for adjudication, it is quite extraordinary, as well as, in my opinion, much to be regretted, that at no period in these many years, was any expert in mental diseases engaged in the elucidation of Mr. Parish's actual condition. This omission can hardly be explained on the supposition that it was overlooked, or that its importance was undervalued. *Experts* in one department of medical science are less likely than others to despise the peculiar skill and attainments of those trained in other specialties. One skilled in the nice discriminations of ophthalmic practice, both in diagnosing and treating disease, and conscious that his attainments have been the result of good natural gifts, persevering application and wide experience, cannot be supposed capable of undervaluing the

same order of powers, the same enthusiasm in pursuit, and a like enlarged experience, when applied to the still more delicate and complex affections of the human mind.

A vulgar opinion exists to some extent, that any man of good common sense is as well qualified to judge of a patient's or a prisoner's insanity, as the most experienced hospital director. Gentlemen of professional distinction, like those who had the professional management of Mr. Parish, never could have participated in an idea so absurd and untenable. The absence, then, of the highest attainable order of *experts* in mental diseases, in a case so long recognized as being destined for future litigation, and where the interests at stake were of such vast magnitude, ought to be explained by those in whose hands the patient was, or else presumptions adverse to them as fearing the fullest investigation are justifiable.

How do these medical witnesses bring their skill to bear in elucidating the exact character of this testator's capacity? It is to be recollected, that however plain and usual the case seems now to one, under the evidence as contained in the printed volumes, these gentlemen believed him to have suffered little or no mental affection, and if such was the fact, his peculiarity of non-communication, except in one strange, unique method, must have made his case one of the most extraordinary and anomalous kind—one of which they *now* scarcely pretend to give any explanation, or suggest any pathology. If unable to fathom a mystery so strange as this must have seemed to them, under their theory that Mr. Parish was a rational man, were they not bound, in view of its moment, to apply such tests as would have relieved the court from doubt as to its true character?

As oculists, we find them measuring with commend-

able delicacy and careful accuracy each circumstance bearing upon the degree and quality of his eyesight. But I have been able to discover no method or system, in their endeavors to reach his grade of *mental vision*, no application of tests to render obvious what was evidently so obscure that a body of intelligent witnesses with equal, and as regards many of them, the best opportunities for forming a judgment, arrived at opinions absolutely antipodal from the same kind of facts! What methods of procedure, and what application of tests might have presented themselves to those specially skilled and experienced in the treatment of mental diseases and infirmities may be considered hereafter.

It is enough at this stage of our inquiry to say, that in the absence of all proof or intimation that these gentlemen employed any other means of discrimination than those which were common to all who were in a position to take notice of Mr. Parish, we must pass their testimony into the mass of common proof, inferior to some, as for example, that of his immediate nurses and personal attendants always around him, and superior in character only to that of mere acquaintances and friends calling to see him occasionally on purposes of business or courtesy.

Let us commence our search for the facts bearing on the medical question in the case, with an analysis of the testimony of his immediate attendants. We have a succession of these from the day or two after Mr. Parish's illness commenced until within less than a year prior to his death. The first of these was James C. Fisher, who commenced his services July 22d, 1849—the apoplectic seizure having been on the 19th,—and remained until the 27th of the next December. Of course, if correct in his dates, he was there during the execution of the first codicil, August 29, 1849, and its re-execution on the 17th of the following December.

He gives many and minute details of his manner of waiting upon his charge, most of which indicate that Mr. Parish was in a state of great physical feebleness, but throwing little light upon his mental condition. Fisher says, that within three or four weeks, Mr. Parish began to speak words, and make signs. When, for example, he wished for the chamber utensil, (*II.*, *f.* 826,) he put his hand out of the bed; when he desired the bed-pan, he turned down the "spread;" and that he made other signs when he wanted more or less light, that Mrs. Parish should be called, &c. Fisher, indeed, represents that these signals were agreed upon conventionally between his patient and himself, within three days of his going to serve him.

All these signs, of themselves, give the impression —even if there were nothing behind to lead to the belief that Fisher was in error in supposing that they understood each other—that these were nothing beyond the natural instinctive indications of physical wants in an exceedingly reduced sufferer, which an experienced nurse would necessarily catch, and subsequently avail himself of. No experienced observer of human dilapidation and extreme weakness of body and mind, can fail to have noticed some signs like these by which some want or some distress is indicated. They are involuntary signals by which the young infant, the aged imbecile, or the demented invalid, show forth some painful sensation, and in association with it an instinctive desire for relief.

A parallel indication of indefinite distress and unrecognized demand for relief is shown in the testimony of another witness, (*I.*, *f.* 1745), where Mr. Parish's pressing call to evacuate the bowels is manifested by his eating with great rapidity, "at the same time applying his hands to the front of his pantaloons, as if he wished to open them."

Further notice will be taken of this last symptom as one characteristic of extreme dementia.

So legible are the class of movements described by Fisher, to the experienced and sagacious nurse, that they would not be overlooked even where all intelligence and all use of the senses are annihilated by injury of the brain from fracture of the skull, with compression or concussion. Some slight movement of the finger or of the lips, makes a language which is readily interpreted, and its meaning acted upon.

A curious English surgical case is reported, or rather repeated, in most modern works on surgery. A sailor who had received an injury to the brain in the Mediterranean, remained in a state of entire *coma* or unconsciousness for more than a year, until he was transported to one of the London hospitals, where the operation of trepanning at once restored him. During this long period of insensibility, deeper than that which exists in sleep, his rude companions recognized some little movements, having no significance in themselves, but found tentatively that they indicated his wants. The call for food was shown in one slight muscular movement—that for drink in another, that for an evacuation of the excretions in still another. These hints were obeyed by the kindly nurses of the ocean, and their shipmate was thereby saved.

I have myself been called within a few years to consult in a case where a lad, from a fall on his head, had lost all consciousness, all power of movement, and lay like a lifeless corpse for more than a month. Yet an anxious mother hanging over him, day after day, learned by her observation that a slight sucking movement in one corner of his mouth indicated a wish for drink; some other equally minute sign that he would make an evacuation, and so on.

Of this character, as it seems to me, were these

movements of Mr. Parish, if they really occurred. I judge so, because his possessing intelligence sufficient to arrange a conventional language within five days after a shock of apoplexy, the sad effects of which underwent but little amelioration for over six years, is not verified by any other circumstances or witness. The incidents are explained with so much facility, and in conformity with so common an experience, that it is not necessary to presume any want of truthfulness in Mr. Fisher, as connected with his discrepancies from the *quasi* parallel accounts of other witnesses. Yet after all, Fisher could not trust implicitly to his signs, prearranged with his patient. In vol. II. f. 826, he tells us, that when Mr. Parish wished to have his wife called, he pointed towards her door. In vol. II. f. 831, Fisher states that when he saw this movement, he inquired of Mr. Parish if he wished to see Mrs. Parish.

The general tenor of Mr. Fisher's account of his patient, and his mode of management with him from day to day, carefully studied, carries with it the impression, that his nurse regarded and talked to and administered to his charge much as he would have done to a young child, or an aged imbecile, or a demented person. He was taken to see the horses, the chickens, the spy-glass; the newspapers were handed to him, he was led out to see the moon, and the like; but it is difficult to trace, from what Mr. Parish *did*, any signs that he ever had an intelligent idea of what was said or done.

Perhaps Mr. Fisher's wish to see his patient doing well, led him to misinterpret encouraging symptoms. At one time he sees Mr. Parish engaged in so intelligent a conversation with Mr. Kernochan, and is so satisfied that Mr. K. seemed so well "to understand Mr. Parish," that he did not feel it to be necessary for him to pay much attention. His services to aid in inter-

preting were superfluous. Mr. Kernochan says he had no reason to believe that Mr. Parish *understood him at all!* Compare vol. II. f. 935 with vol. I. f. 863.

So the statement as to Mr. Parish standing before the clocks, on the 1st and 15th days of the month, when they required winding, appears not so much like a fact indicating clearly a recognition of time, and the necessity of a given act, as some movement or sign of recollection of having seen the clocks wound up, which attracted the valet's attention, as such indications of unfolding intelligence in the infant gratify the nurse, and are rehearsed by her to pleased parents.

Such evidences of memory, thought, calculation, do not quadrate with the general account of the patient's feebleness and torpidity. To assume intelligent recollection and appreciation in this case, and in all similar instances adduced by this witness, is to ignore the manifold indications of mental imbecility presented, over and above the overwhelming demonstration hereafter to be considered, of his incapacity to communicate one idea independently—one wish, if at all, except by the more or less careful and laborious coöperation of another mind. To assume that a person could so far exhibit memory and judgment as to carry into effect the winding up of a fourteen-day clock at its exact periods, and to be able to compare his watch with others', and note the difference, or to indicate on its dial the precise time which his nurse was to be allowed a leave of absence, and yet without any symptoms of undue physical irritability or entire paralysis of the excreting organs, he should be unable to govern his own evacuations, is contrary to all human experience. The testimony proves too much altogether!

Mr. Fisher's hopefulness of disposition or desire to lend encouragement to anxious friends, (no unusual or blameworthy trait in professional nurses,) evidently

prompts him to convert every indication capable of such interpretation into proof of Mr. Parish's intelligence. For example, in Vol. II. f. 907, he permits this proclivity to generate in his mind a belief that his patient, at an alarming period of his disease, (if, as it seems to have been, about October, 1849,) not only evinced an intelligent appreciation of the necessity and character of the medicinal agent prescribed, but a persevering determination despite the nurse's judgment, that it should be used to the utmost dose, and what is more extraordinary, employed in his determined purpose the vocables, heard, as it is believed, by no other person, and at no other time, not merely *yes* and *no*, (about which other witnesses disagree, whether they were ever articulately uttered or not,) but "*why, yes*," two monosyllables involving as much difficulty in enunciation as any others in the English language!

The same sanguineness of temperament is manifested in Mr. Fisher's account of his patient, (II. f. 969,) writing the word "wills" on the fly-leaf of a book, as contrasted with Dr. Delafield's less assured account of the same transaction, (I. f. 3045,) and by the pregnant correction of both in the actual chirography itself as produced before the Surrogate, (see Exhibit No. 269, Vol. III. p. 701.) No stronger proofs, how much his anxiety to believe in a favorable progress of his patient, biased his judgment can be imagined.

The trustworthiness of Fisher's narration as to his patient's symptoms has been impeached. I have not failed to notice this fact, but regarding him as one of the sanguine, encouraging, hopeful members of his profession, I am able to see little in his testimony which is inconsistent or incompatible with the theory that *Mr. Parish's real condition was that of extreme dementia, where passiveness and a limited variety of sounds and movements could be interpreted honestly into almost*

any class of manifestations already in the mind of the observer.

The next personal attendant in succession was Simmons, who came in December 1849, and left in December 1850, having served, as is stated, about eleven months, a period of time rather more than twice the length of Fisher's service.

He describes the daily routine of his patient's life much as it is done in his predecessor's narration, while the conclusion he deduces from what he saw was directly the opposite. The prominent acts of apparent intelligence in Mr. Parish, described by this witness, (Simmons,) seem to be his pointing at certain articles as if he wished to have them, as articles of food, his spectacles, brandy and water, &c. It was his habit to be carried to the provision dealers, where he would point at the various articles of food, "sometimes one thing, sometimes another." These indications *per se* hardly rise higher in their value as evidences of mental capacity than would the attracted attention which idiots of the higher degree, in the classification of these unfortunates, manifest in things around them, prove that they understood and appreciated the idea of wants, and providing for them.

Any presumption of active and disposing mind, predicated of such incidents as those occurring in the provision store, is entirely negatived by the subsequent explanations of this witness, showing that Mr. Parish failed to go one step beyond mere optical looking at the things around him, connected perhaps with some dim and evanescent association-idea of pleasurable gratification. Simmons, with apparently equal intelligence, and more than double opportunities of observation, as compared with Fisher, the preceding nurse, disclaims any ability to explain the meaning of Mr. Parish's gestures, and much less indeed could other

parties, anxious and concerned to fathom his meaning, if any there were, succeed in comprehending him. (I. f. 1700, 1724.)

This witness also describes the attempts made at different times to induce Mr. Parish to write upon a black-board and a slate. "A copy" was set for him, and he was coaxed and persuaded (I. f. 1709, 1712) into making marks, but nothing like a word or even a letter seems to have been produced. It is important to note that in the progress of these trials nothing was manifested of antipathy or reluctance—nothing of irritability or aversion to the attempt. He was unwilling to start, (I. f. 1709,) but under coaxing did try several times, during some three or four days, on the black-board, and two or three weeks on the slate. It is difficult to apply any other solution to his entire failure on these thoroughly tried experiments, than that *his mind was in a condition of too much imbecility or torpidity to grasp the idea of what was required.*

Simmons also testifies (I. f. 1718) to an indication of a deplorable grade of demency, when not explained by obvious physical conditions, the incapacity of his charge to control his evacuations. I regard the various accounts of this weakness as so characteristic of dementia in Mr. Parish's case, that they are worthy of a more specific consideration, and shall receive it in a subsequent stage of this opinion.

Thomas Wingrove, the next in succession of Mr. Parish's personal attendants, began his services about June or July, 1850, and remained until September of the next year, a term of about fourteen months. His general account of his charge's condition and movements coincides with that of the preceding witnesses. His account of Mr. Parish's searching his wife's wardrobe, divested of his clothing at one time, and making a like search at some five or six other times, at first

sight would seem to indicate an extreme of dementia, but may not, under all the circumstances, be deemed inconsistent with the idea of a man incapable of expressing his wishes, and under a high degree of irritation at not making himself understood, pressing forward to do that for himself which he cannot make another do for him. But the fact *that he did not recognize the pantaloons he had just worn, when they were thrown in among others, after he had evinced a strong desire to change*, is in strong analogy with the various marks of imbecility already presented by these witnesses.

The account by Wingrove of Mr. Parish's ways at the provision dealer's, (I. f. 1514,) while generally coinciding with that of the previous witness, would convey the idea of a still greater mental weakness, as he is here represented as *not even pointing* to the articles around him. The dealer brought them to him, and then sent them to the house, and were kept or returned by Mrs. Parish, in the exercise of her judgment as to their being wanted or not. It is manifest that neither nurse nor dealer obtained any meaning in these transactions, from Mr. Parish's own sounds or signs.

In I. f. 1521, we have very striking manifestations of his inability to express an idea, if there were any floating in his mind, as to the direction in which he would be driven. The scene here depicted will bring vivid recollections to any mind habituated to the ways of the demented. They very often exhibit a strong degree of indefinite will, an obstinate persistence in pursuit of an indistinct and unascertainable something, after the faculties of knowing and judging are essentially extinguished. The same remark will apply to the account (I. f. 1523) of what occurred when Mrs. Parish, the guiding spirit of his shattered and appa-

rently almost annihilated intellect, was accidentally absent from him during a brief period. So also in the freaky and capricious endeavor to place himself in positions reached with the greatest difficulty, and attended with imminent hazard, as related in I. f. 1527, 1531, we cannot but notice indications perfectly in harmony with the every-day actions by those exceedingly demented. They pursue, with an amazing tenacity of purpose, some vague, indefinite, indistinct impression, scarcely clear enough to come under the word delusion—an impression which, from its mistiness, is incapable of being conveyed to another mind, even though the power of using language remains intact.

Here again (I. f. 1556) we have further illustration of that sad condition of imbecility marked by an inability to command, or even indicate the calls of nature in the evacuations of the bowels and bladder. It is true that, in certain conditions of paraplegiac palsy, where sensation is destroyed below some points in the spinal column, the broken nervous channels may not convey to the sense or mind of the sufferer a notice of such calls, even though the mind is comparatively but little affected. Again, in other conditions of morbid sensitiveness of the pelvic organs, the calls to evacuate the bowels and bladder may be so sudden, and so imperious, as to permit the distressed invalid no option but to yield to the intensity of the demand on the spot, wherever he may be, and how much soever he may be pained. But this repeatedly named difficulty with Mr. Parish had no symptoms which would allow it to be classed under either of these heads of disease. His disorder, so far as the palsy was concerned, was merely hemiplegia, where one-half of the body or the other, (ordinarily, as in his case, the right half,) in a vertical ine, is paralyzed. In these cases the organs of animal

life continue their functions, and such is the distribution of nerves that an incapacity to command the fœcal or urinary evacuations does not exist.

Nor in the description of this or the other witnesses on this point, can we find traces of morbid sensitiveness of these organs. The medical opinion that such *might* be the case, seems to have been arrived at by a very forced supposition, as e. g. the symptom must have some explanation; such palsy or such morbid irritability would explain it, and it was therefore inferred to exist, without any positive evidence. The defect in the explanation is, that such marked sensitiveness or paralysis is not the sole occasion of this symptom. Neither of these grounds existing, the only adequate explanation left for the sad manifestation mentioned as being of no infrequent occurrence by his personal attendants, is, that *his mind was extinguished to a lamentable degree.*

The next witness in the class of nurses is Mr. William Brown, who was with Mr. Parish from October 13, 1851, to the middle of November, 1854, about three years and a month. The whole tone of this witness's testimony is evidently affected from his regarding his patient as much less seriously diseased than any of the preceding nurses, or the medical gentlemen deemed him to be, both as regards his physical symptoms and his mental condition. A clew to his disposition to look at every thing in a hopeful light, is indicated in the general summing up of his opinion, viz., that he "considered Mr. Parish's mind strong and healthy, perfectly understanding all I ever said to him." He states that Mr. Parish's right leg was "*slightly affected*," "he just made a drag of his toe in walking," (II. f. 1297,) while all the other witnesses saw an absolute paralysis of that side, and an entire loss of the use of that limb. And in order to show

(II. f. 1302) how little aid Mr. Parish required in walking, he says he did not help the lame foot, " as I could not do that, and have his arm linked in mine," giving the impression that all the aid his patient required was slightly to support himself on the attendant's arm. Compare the degree of weakness thus intimated with Dr. Delafield's account of Mrs. Parish's remarkable knack in lifting up his foot with hers so as to enable him to walk. (I. f. 2079.)

Brown's general account of Mr. Parish's visit to the provision dealers, agrees substantially in most of its features with that of the other nurses, except that in a most important particular he manifests the same sanguine temperament before alluded to. He gives the idea that Mr. Parish not only was equal to the duty of examining and selecting the various articles needed, but that he evinced skill in chaffering and bargain driving. (II. f. 1411.) The facts he states, even with his own coloring of them, do not warrant his conclusion, and that in giving them this interpretation he went beyond the true significance of any signs or sounds which he witnessed on the part of his patient is rendered certain, not only from the testimony of the other attendants on the same duty, and the provision dealers themselves, but by the sending home of provisions of which Mrs. Parish thought fit to return the whole, or a portion. This fact demonstrates that neither *she nor they regarded* Mr. Parish as equal to purchasing such supplies.

In looking at and endeavoring to weigh the value of many little facts and incidents testified to by Mr. Wm. Brown, we cannot but see this bent of a sanguine mind, anxious to comprehend his patient's movements, and self-satisfied on altogether too little evidence. That he was successful in his hopes is clear because to no other witness amongst those having the same degree of experience with him, did the incidents convey any

such degree of intelligence and meaning, as they did to him. Nor would it seem that any improvement in Mr. Parish's condition at the somewhat advanced period of his disease, at which Brown's services commenced, explains his (Brown's) more favorable views. Indeed, on all the grounds of probability, the continued succession of severe fits of epilepsy would necessarily involve the idea of diminished mental power, if he were not in that state of dementia from the first, which would not permit the measurement of descending degrees in mental capacity.

Mr. William Brown evidently considers himself a complete "master of signs." Mr. Parish nods his head (II. f. 1314) "as if yes,"—points to certain places in the newspaper for witness "to read to him," going through more movements in selecting the paragraphs than would have been needed to have perused them himself, if capable of reading; lays aside the journal for Mrs. Parish—points out some interesting articles to her,—she would read, and "if it was a death, he would make inquiry," &c. Indeed, this witness habitually alludes to Mr. Parish as if he had not even an infirmity of speech; he makes "inquiries," (II. f. 1317, bis 1333,) examines a book of accounts called a "tickler," to ascertain questions of indebtedness; notes the last entries in his book of bank deposits; and the witness undertakes to state that the degree of Mr. Parish's attention to his books of account varied with "the amount of business to be done at certain dates," and "in the morning would lay out a certain amount of business to be done the next day," &c. In Vol. II. f. 1357, we find Mr. Parish making a sound "in a *solemn* manner," when he wished to see a clergyman; in Vol. II. f. 1358 he gives "all attention," presumptively an intelligent attention, in Brown's opinion, to Mr. Kernochan, whose utter inability to understand him, or to know

if *he* were comprehended, has before been spoken of. In Vol. II. f. 1369, we find Mr. Parish examining the plans of a tomb, and (II f. 1371) gives orders for his pantaloons to be made "roomy and nice." This witness also finds in Mr. Parish an ability to utter words to a far greater extent than any of the nurses who were in attendance upon him at an earlier period of his illness —or indeed than any other person at any time. He not only says *yes* and *no*, but, "*Why*, *yes*, with a smile," and "*Oh*, *dear!*" or, "*Oh*, *thear!*" "Oh! Got, Got, Got!" Even Mr. Parish's habitual expression of countenance, which is proven by many witnesses to have been uniformly sad and melancholy, Mr. Brown found always (II. f. 1296) "pleasing and healthy."

It is not necessary to follow this witness through the entire detail of his experiences; the most prominent and significant points have been presented, without making, on the presumption of untruth, any deductions from the *couleur de rose* tint with which he invests his charge's mental condition; and it is easy to see that his mode of interpretation brought him to a result such as no other witness reached.

If this witness's inferences from his facts are warrantable, then is his opinion as to the perfect soundness and understanding of Mr. Parish legitimate. But the theory of absolute and perfect integrity of mind such as Mr. William Brown and several other leading friends adopt, augments and thickens the darkness and mystery which envelope our second division of inquiry: why did not Mr. Parish communicate in some better way than that suggested as his? A man with some mental change, some monomaniac caprices, could readily be thought to refuse to do any single thing; while the question might be an open one, as to the soundness of his other intellectual operations. But to assume complete integrity of mind with so striking a peculiarity to

be harmonized is no easy task. Hereafter this topic will be brought under consideration. It is enough now to say that the judgment of Mr. Brown, and the other witnesses of his way of thinking, prove altogether too much to allow Mr. Parish's great peculiarity—his anomalous symptom to be brought within the class of minor mental defects, or eccentricities or sensibilities which *might* exist, and still leave him, in a condition of capacity, adequate to making an unimpeachable testament.

The next witness of the class of personal servants is James Clarke, whose term of personal service was about a year and four months, beginning in December, 1854, and terminating the latter part of April, 1855. His duties were essentially the same as those of the previous attendants, and we have the same sad narrative of his patient's extreme feebleness of body, and the same uncertainties as to his ability and degree of comprehension. We note in this witness's examination the same indications that Mr. Parish was treated essentially as a child or an imbecile, by those around him. The coachman is sent for; he appears, and announces that "the horses are well;" "that there is plenty of feed," &c. (I. f. 1728.) When carried to his store, this witness calls down Mr. Parish's friends, as if he had sent for them, without any pretence of such direction from him. In Vol. I. f. 1732, we see that when Mr. Parish was taken to the door to see the moon and stars, his wife entirely fails in her efforts to attract his attention, and at various places in Clarke's testimony, we see that Mr. Parish pushed his wife rudely away, and this without the slightest indication of a cause. (I. f. 1730, 1733, 1736.) This act is entirely inexplicable. Extreme irritability might account for even a high-minded gentleman—constitutionally as is proved of perfectly controllable temper—so far losing himself as to be guilty of such an act, but under this supposition *the occasion of offence*

would be apparent even if the act was most unreasonable. Did not these rude pushes originate in the same general class of angry, obstinate, misty impressions, too dreamy and indefinite to be worthy the designation of *delusions*, which were controlling him when he insisted that his carriage should be directed in some unintelligible way, or when, during his wife's absence at the daguerreotypist's, he evinced such a frightful degree of anger as to invoke a curious mob about him?

In vol. I. fol. 1738 of this witness's evidence, we have rather an amusing comment on Mr. William Brown's account of his patient's care in having the newspaper read, selecting paragraphs for his wife, &c. James Clarke speaks of Mr. Parish's habit being that of *sleeping or looking out of the window* when the newspaper was being read!

In vol. I. fol. 1744, '45 we again have this witness's testimony to what is probably an unquestionable fact, that Mr. Parish had lost the power of appreciating the calls of nature. The cumulative testimony touching this symptom, is very important, as demonstrating that it was no single or rare occurrence, and that it did not occur merely at some rare periods of local disease. Each witness, except perhaps Brown, of his immediate nurses, as well as some of his medical attendants refer to this infirmity. Yet it does not seem to have been uniform, but only occasional. Now if it was due to morbid irritability it would have been existent at one or more periods when the local disease was most urgent. If from palsy of the sphincters, it would have been uniform and constant. But it happened occasionally, now and then, just as it does in the demented patients of every insane hospital. If the attendant is vigilant; if he watches the little accidental signs, such as his patient's wandering around as if in search of some place to relieve himself, perhaps passing again and again before

the door of the very water-closet where he has eased himself for years, without recognizing it as the place wanted, or such as his patient's fumbling at the opening of his pantaloons—or some petty movement still less connected with the want—and recognizes them in time, such an accident as his patient, while continuing in usual health, defiling himself, may not occur once in half a year. But if he is inexperienced in such duties, if he is deficient in tact or in vigilance under the occurrence of accidental looseness in his patient's bowels, this disagreeable accident might occur at any time, and at any number of times in each year.

The recognition of this accident as occasional—not very frequent, nor yet very rare, is the best proof that *its causation was in the mind*, and did not depend on local weakness or palsy. This is, I am aware, a painful and disagreeable topic to be introduced so often or at all. Yet it seems to me so important in its meanings, *so* pathognomonic *in deciding the probable condition of Mr. Parish's mind*, that I should not have expressed my full views, had any sentiments of false delicacy permitted me to slide over it.

In I. f. 1752, '9, of this witness's examination we note an approximation towards a test, where a question is twice put, and a negative and an affirmative response successively given. It is on many accounts to be regretted that this test could not have been more fully put into practice by investigators of a more competent and cultivated class. The result in this instance is one among the many corroborative indications that Mr. Parish's ability to show assent and negation was extremely questionable.

This witness (I. f. 1752) enters his final judgment that Mr. Parish's "mind was not right." He does not attempt a confident precision of statement like the preceding witness, William Brown. His facts manifestly

warrant this extent of assertion. He has nothing of the positiveness of many witnesses, whose facts are less pregnant, but few persons can read his plain matter of fact statements without the feeling that they are obtaining the exact facts. I may say, that they are facts which tell to the experienced observer the story of a most common every-day type of dementia.

I do not perceive that the succession of nurses is continued in the testimony after Clarke, *i. e.* from April, 1855, to the death of Mr. Parish, March 5, 1856. From the accounts given by his medical attendants of his progress to the close of his life, it seems probable that there were few marked incidents to vary the sad spectacle thus far traced.

We now come to the testimony of the medical gentlemen in attendance upon Mr. Parish. It is to be regarded as next in importance, as they had the next best opportunities of observation. The first in order of time is his brother-in-law, Dr. Delafield. His acquaintance with his patient's case commencing long anterior to the fatal stroke of apoplexy, and continuing until his eyes were closed in death, naturally prolongs the narrative of events through many pages, from which I shall endeavor to abstract the facts, which bear upon the question of mental condition.

The first facts throwing light upon this are at vol. I. fol. 2085, '6, where Dr. Delafield explains what he regarded as Mr. Parish's sounds of affirmation and negation, his inquiring looks and his gestures, but none of these as described would necessarily carry the same convictions to a disinterested, unconcerned observer. The same explanation of the possibility and probability that all these signs and sounds were misapprehended—that there was actually no meaning behind them which has been before suggested, may be thought to detract much from their value as proofs. They were brought

to nothing like a test; the apparent accordance sometimes noticed between his signs and acts, might be nothing but accidental coincidences.

At vol. I. fol. 2087, Dr. Delafield assumes without one particle of evidence, and contrary to the whole tenor of the facts, as I interpret them, that the important symptom of Mr. Parish's losing the command of his evacuations, was of doubtful causation. He says it might be from morbid irritability of the bladder and rectum, or from a loss of power, that is palsy, of their sphincters. The doctor does not allude to a cause, (that before in this paper named,) which must spontaneously suggest itself to every one experienced in mental affections as much more in consonance with the whole series of symptoms in this case, viz. :—*that this inability to regulate the fœcal and urinary evacuations resulted from no local disorder, either of excessive or annihilated sensibility, but because the mind to which such calls are addressed was wanting.*

Dr. Delafield belittles the gravity of this symptom when, at Vol. I. f. 2087, he says that "the sphincter muscles and the bladder and rectum were to a *certain* degree affected, so as to impair *somewhat* their functions," and this is represented to have been a symptom of the *latter part* of Mr. Parish's life. Now, Simmons, whose term of service was in 1849 and 1850, testifies to its existence in his time. Wingrove, the nurse for the next fourteen months, testifies to its continuance in his, (I. f. 1556,) and James Clarke, in a service of sixteen months from December, 1854, gives a still more minute account of the same still continuing affliction, (I. f. 1744, '5.) and his account closes almost a year before the death. If this symptom really were more prominent during the *latter* part of life, as Dr. Delafield says, it doubtless is explained on the ground of still more extreme demency than had before existed.

To conclude my views touching this symptom, which I regard, occurring as it did, as quite pathognomonic or characteristic of mental, rather than physical imbecility; I would suggest that this might have occurred from morbid irritability of the mucous surfaces, or from absolute paralysis, and yet have left the mental faculties unimpaired. But if it did not occur from either of these conditions, there is only one other recognizable cause, that is, dementia, a state, and this symptom of it always present in abundant examples in any considerable hospital for the insane. And such dementia is a natural, legitimate, usual sequel of apoplexy, or of severe epilepsy, or, as in Mr. Parish's case, of both these diseases in continued action.

Morbid irritability of the rectum is a condition resulting from inflammation of its lining membrane, as in dysentery. The bowel is sensitive to the touch of any foreign matter or of its own secretions, or even without any thing in contact it may evince *tenesmus* from mere congestion and inflammation. It is not a disease that could possibly be overlooked or mistaken by the medical attendant, or even by the common nurse. If it even be chronic in its nature, it is but too palpable, and so pressing as to give its victim scarcely any relief from painful and disagreeable symptoms. Palsy of the sphincter is still less capable of being misunderstood; it is one of the saddest of those calamities which make life insupportable. It is a chronic and permanent affection; ordinarily the patient can have no intermissions of governing and then losing the control of his evacuations; the power which nature, by one of the most wonderful of her many curious contrivances, employs to close these passages when at rest, so that they are released by the will in order to exercise their functions, is destroyed. The extremity of the bowel or bladder becomes nothing but an open

tube, which permits any thing which is present to escape as from an inanimate opening.

Fortunately we are not often called upon to ascertain the existence of, or advise in such cases as present the forms of disease last described. They are not the concomitants of ordinary apoplectic paralysis, which is of so common occurrence from lesions within the brain. The cause in most cases is from injury to the spine; most frequently from a short doubling or curvature from falling from a hay-cart, or some similar circumstance. The bladder itself, in such cases, may be so affected as to confine its excretion while the *sphincter ani* is absolutely released and open. Death usually supervenes in a few weeks under this form of injury. No practitioner can have failed to meet it.

Now, from the accounts of all the witnesses, neither the one nor the other of these two specified conditions can be presumed to have existed in the case of Mr. Parish.

It is evident that his trouble in evacuating unconsciously was one which came on occasionally, at irregular intervals, during several years. The solution of its so presenting itself was, doubtless, in the circumstance that a vigilant observation of Mr. Parish's indications was sometimes neglected, or some error of diet or effect of atmospheric changes deranged for a time the functions of the bowels and the character of their contents as regards acridity or fluidity, so that the usual impression conveyed to the sensorium was lost. Let us assume for a moment that Mr. Parish was in the full possession of his faculties, as so many of these witnesses believe. Is it to be supposed that with a morbid irritability of the rectum, or a palsy of its sphincter, as Dr. Delafield hints, a gentleman would have ventured to do what Mr. Parish did every day of his life for some years, ride out, receive company, dine with the invited guests, and the like?

The existence of this inability in demented patients, their habitual manifestation of some indefinite idea of a call, such as Mr. Parish evinced, leave no doubt that *this* was the true explanation of his infirmity. No other circumstances suggested by the evidence will explain it, nor can I conceive of any. Dementia *does* account for it fully, naturally, and, as I believe, certainly.

Dr. Delafield continues throughout his testimony, frequently to express an opinion that Mr. Parish was capable of understanding what was said and done, but it is not easy to perceive how his facts warrant this belief. His natural and honorable anxiety to see his friend and patient relieved, prompts him habitually to look upon every encouraging indication with too sanguine and flattering impressions. In Vol. I. f. 3045, he says that certain characters made on the fly-leaf of a book with a pencil, "and always the same," were construed to mean the word, "Wills," and that Mrs. Parish, on seeing them, suddenly exclaimed, "Wills!" with a good deal of emotion, as if it were an unexpected, startling thing to her. Now, any person looking at the marks, so construed, in the original or in the printed *fac-simile*, cannot but appreciate the tendency to miscolor testimony, (without any implication as to entire good faith,) which obtains, where the feelings are deeply involved.

Dr. Delafield's account (I. f. 3051) of the faithful and persevering efforts made to induce Mr. Parish to use his left hand in writing, demonstrates their failure, beyond a supposed writing of his name. The fact of success, even to this moderate degree, might be of moment in entirely removing his case from an alleged class of patients, where the connection between thought and its symbol of expression, that is, language, is dislocated and lost. More will be said hereafter of this

pretended symptom of the phrenologists. It may be further observed, that Dr. Delafield (I. f. 3265) alludes to the attempts which were made to secure this object of writing, by placing a copy of his name before him, "to see whether, by fixing his eye steadily upon the name, properly written, it would aid him. It did no good." This experiment approached somewhat to the idea of a test, although not so close as could be desired. *Why did it do no good?* His eye was equal to the task; so also was his left hand. What else induced its failure, unless it was the absence of the powers of mind which connect and guide such movements as were sought for?

I have already referred to the fatal absence of any system of tests calculated to determine the precise grade of Mr. Parish's capacity. Dr. Delafield testified (I. f. 3294) to his being aware, that Mr. Parish's "soundness of mind and mental capacity were likely to become a question of judicial inquiry, and that his sister was interested therein," and in Vol. I. f. 3304, he expressly declares, that he "*never made any examination of Mr. Parish, or applied any test to him*, for the exclusive purpose of ascertaining the state of his mind." When cross-examined, the doctor avers that he considers each visit to his patient to have been "a test." The expert in mental diseases might suggest that a professional visit to a patient, with a delicate, protracted, ophthalmic disease, without any critical examination, by a physician skilled in mental phenomena, would equally well deserve to be called "a test."

Many exceptions might be taken without hypercriticism to Dr. Delafield's views of cerebral lesions, and their effect upon the mental state of the patient. There is, however, no necessity of entering into any such field.

The value, too, of an examination, *post-mortem*, of a

patient's brain, in establishing a presumptive integrity of the mind by an absence of all abnormal signs; or confirming the probability of mental aberration or imbecility, by the discovery of organic changes within the cranium, it is safe to say, would be quite differently estimated by those whose professional studies had been in a different specialty from his. But when we have as in this case an abundant supply of facts, carrying with them an indisputable interpretation, it is not necessary to enter the fields of pathological controversy.

The next medical witness is Dr. Dubois. His testimony may be dismissed with a very few remarks, as he declares, (II. f. 210,) that he never had a suspicion that he would be called upon as a witness in relation to Mr. Parish's condition of mind. He visited him exclusively for his disease of the eyes, and made neither examination of, gave reflection to, or tried any tests touching Mr. Parish's mental capacity. He waited upon him as an ophthalmic surgeon, and as such manifestly discharged his whole duty with sagacity and fidelity. He asked the necessary questions on the subject-matter of his specific duties, and when he received certain sounds and gestures, as indicating affirmation and negation, he accepted them as such without doubt, hesitation, or inquiry. Mr. P. nodded his head with a sound for the one, and shook it with a sound for the other. Dr. Dubois, intent on reaching the exact character of the eye disease, would not naturally doubt that he was understood and properly responded to. How easily a reliance upon simple expressions of *yes* and *no* would mislead, even if the patient's own story were of vastly more moment than it usually is in ophthalmic diseases, where the oculist judges more by what he *sees* than what he *hears*, will be considered as we pass along.

Dr. Dubois, (II. f. 191,) in giving his opinion, mod

estly, and as if suspicious that it was not based on the carefully and thoroughly tested substratum of facts, which unquestionably would have underlaid any of his ophthalmic judgments, qualifies that opinion by saying that Mr. Parish's "mind *appeared* to be clear and sound"—an opinion natural enough in view of his methods of examination.

Dr. Wilkes, the next medical witness, and an eminent ophthalmic surgeon, when questioned as to his visits to Mr. Parish, states that he saw him in 1852, "and for an affection of the eyes," and so far as appears, without any reference to the mental condition of his patient; a condition which incidentally, it may be remarked, was a very ordinary, commonplace one, viewed from one standpoint, namely, as demency; but certainly of a most interesting, anomalous, and rare character, if regarded as that of a person perfectly sound, yet incapable of making any external manifestation of such mental integrity—a case so extraordinary among the rare cases of medical science, that one medical man could hardly avoid gratifying a friend by introducing it to him, as one of the wonderful examples of psychology.

Dr. Wilkes made his patient seven or eight visits, and evidently made a thorough investigation of his case, as an oculist. We note that he tried his visual powers with type of different sizes, pictures, vases, different degrees of light, &c. He thinks, (II. f. 218,) that he was very happy in obtaining Mr. Parish's meaning. "If I presupposed any symptom which did not exist, he would immediately object to it, by shaking his head, and a marked expression of manner that that was not the symptom." How did Dr. Wilkes know that the symptom did *not* exist? Did he ask for symptoms, where his own observation would correct or confirm his inquiry? *Did he ask Mr. Parish whether*

he could trace ordinary print with his disorganized eye, and receive a positive yes, or no? Were any such tests as this applied, which would have determined whether he were understood or not, and that the replies were not made hap-hazard? We see no account of any.

The responses, *yes* or *no*, might on the doctrine of mathematical chances fit, if uttered alternately, one-half of all indiscriminate interrogations, capable of being answered by simple affirmation and negation. Dr. Wilkes states, that on the occasion of his visits, Dr. Delafield "would ask him (Mr. Parish) questions, and Mrs. Parish would state about his diet." We can well conceive with the natural impressions thus derived, *ab extra*, one topic, the condition of the sufferer's eyes being alone prominent, that Dr. Wilkes might arrive at the unhesitating opinion, that Mr. Parish's "mind was clear, and capable of transacting the ordinary avocations of life."

Dr. Wilkes, in his anxiety to determine the precise accuracy of the optical apparatus of his patient, appears to have overlooked the consideration of that more subtle interior condition to which all the mere machinery of lenses, humors, retinal expansion, and so forth, are secondary.

When after various abortive attempts to fit himself with a pair of spectacles, the Hibernian was asked by the anxious vender whether he could read at all, he replied, "Do you think if I could read I would be such a fool as to buy spectacles?" The dialogue is recorded as a proof of the Irishman's folly; but it is no greater error than that of the oculist *per se*, who overlooks the office of the brain, while anxious about the integrity of the mechanical appliances, which only transmit to it the materials for appreciation.

Dr. Wilkes evidently has no very clear explanation

to give of the great difficulty of the proponent in this case, *i. e.* how Mr. Parish, if sound in mind, should refuse to communicate in the usual way of such patients. In vol. II. fol. 282, he seems disposed to consider this repugnance or refusal to write as a *monomania*, and would explain the difficulties of a supposed analogous case, by the idea of the patient's mind being sound *on other subjects;* of course diseased *quoad hoc*, or monomaniac. At vol. II. fol. 284, he is disposed to consider the refusal to write as wilful, or to use his own words: "It appears as if there were a perversion of his mind upon that subject." At vol. II. fol. 285, he puts the refusal neither on the ground of delusion nor perversion, but of mere irritability. Paralysis, he reasons, makes its victims irritable; the use of the left hand requires more than ordinary exertion, therefore the patient, finding his efforts to fail on trying, refuses absolutely to continue his endeavor, yet all his mental faculties are in perfect integrity.

At vol. II. fol. 309, Dr. Wilkes illustrates another view of Mr. Parish's case, still differently, by a reference to the case of a Dr. Grayson, who was unable, pending an apoplectic attack, to write the final syllable of his name. Dr. Grayson's seems to have been one of those not infrequent forms of apoplectic disease or symptoms, where the power of connecting certain words with their ideas may be lost; some Christian name is not capable of being justly applied to its owner, or some wrong word will insist on taking the place of the one which should come in. In cases like Dr. Grayson's, the current of thought may be quite normal, notwithstanding this difficulty of a few words being unmanageable, while in Mr. Parish's case, the fact of *any* mental activity is only obtained by inference. Dr. Grayson's power of articulating intelligibly was scarcely affected at all. Mr. Parish's power of articulation was extinct, almost, if not quite, *in toto*.

Dr. Wilkes's other case, (vol. II. fol. 300,) of a hypochondriac who kept his room and yet did business for a long period, is interesting as a curious example of hypochondriasis, but not elucidatory or instructive in our inquiry, as there is no evidence of Mr. Parish's having been in any sense a hypochondriac.

Dr. Wilkes seems to have omitted all consideration of the possibility of a condition,—that of dementia,—which would meet adequately all the indications presented.

The remaining medical gentleman in attendance on Mr. Parish, Dr. Markoe, the business partner of Dr. Delafield, saw him soon after his fit of apoplexy, and through his entire illness to his death. The first facts in his testimony which throw any light upon Mr. Parish's mental condition, are presented in vol. II. fol. 1997, where the doctor describes his manner of investigating his case. He asks such questions as would permit an affirmation or a negative response, "and received from him always readily and promptly, what I conceived to be an affirmative or negative answer to my questions." At vol. II. fol. 202, Dr. Markoe further explains what meaning he attached to Mr. Parish's gesticulations or motions.

I have been unable to perceive any thing in the facts or opinions recorded in Dr. Markoe's testimony in the application of the signs or sounds, which he interpreted as *yes* or *no*, which necessarily fixes them as having been accompanied by intelligence; and the remarks hitherto made, and hereafter to be made, upon the strong probability of these supposed expressions of assent and dissent being entirely hap-hazard and without intelligence, will apply alike to the opinions of this witness as of the others who declare like opinions.

Dr. Markoe gives a reason why a *post mortem* examination was not made:—an inquiry which doubtless

every medical man has made, after he has reached the slightest acquaintance with the case. It was that "he was informed by Dr. Delafield that the feeling of the family was strongly opposed to it, and I said no more." It is truly remarkable that an eminent physician, who had the rare fortune to be the witness of what he believed to have been an actual separation and dejection of a portion of bowels, and that followed by recovery, and carrying on the functions of life subsequently, could have rested so easy, under a first and not apparently insuperable refusal to admit an autopsy! One of the previous medical witnesses suggests a ground for not having an examination, that it is not usual in paralytic subjects "in private practice." A case of paralysis, involved with so extraordinary an organic lesion as to be almost beyond belief, certainly would have justified a more pressing application than seems to have been made, independently of any light which might have been thrown upon the great medico-juridical question now *sub judice*, by proof of the presence or absence of marks of extensive cerebral disease. The medical gentlemen, and especially Dr. Delafield, who had in the rights of his sister an interest more than merely professional, could not have failed to consider the value of the medical fact, if it existed, that Mr. Parish's brain was found free from other relics of diseased action than the ordinary, expected marks of apoplexy, such as a clot, a cyst, or a cicatrix, as the processes of recuperation had been more or less completed. Confident as they were of his mental soundness, they could have no grounds for expecting any thing except the specific apoplectic damages. They knew how strong the evidence would be in support of their opinion of his mental soundness, were his brain sound, with the exception referred to. Is it to be supposed that Mrs. Parish, the only party whose wishes were to be deemed imperative

on such a subject, in view of the magnitude of the stake, could have resisted an application, based on such grounds? What then is the weight of the inference from the fact that no such solicitation was urged, and no such examination made?

Passing now to the third order of witnesses, the business and social friends of the testator, it is not proposed to look at the testimony of each individual. For there is running through the whole of the details given by these, as by the previously mentioned witnesses, a generally concurrent account of Mr. Parish's habitual condition. The disagreement is more in the conclusions which are drawn than in the facts themselves.

Prominent among these, both from his opportunities and the full detail of occurrences, is Major R. Delafield, a brother of Mrs. Parish. As is most natural, his mind was unavoidably biased throughout the course of Mr. Parish's long illness towards the least painful aspect of his friend's infirmity, and we notice a consequent readiness in him to speak with entire confidence as to Mr. Parish's ability to understand and to make himself comprehended—a confidence at great variance with the inability of various others, nurses and old friends, to recognize the slightest intelligence in Mr. Parish.

We find (II., f. 1747) Mr. Parish "*agreeing*" to the selection of a lot at Greenwood, "*assents*" clearly and distinctly by an affirmative "*yes*," &c.

Major Delafield, in conclusion, (II., f. 1810,) regards Mr. Parish "as perfectly capable of understanding and comprehending any subject addressed to him, that he could have comprehended or understood before his attack."

The basis for such an opinion is not afforded to us. Indeed, it is difficult to conceive how such a sweeping conclusion could be predicated of a person whose only communication was *yea* and *nay*. Not a single test,

involving even those, the only elements on which such a judgment could have been founded, is here detailed, or even hinted at.

I have before this suggested how easily one might be deceived in deciding upon the intelligence of an individual, who could only say *yes* and *no*—the uncertainty which must attach to any communications where the interrogations were made by one party, and merely *yes* or *no* sounded or motioned by the other. If the questions were about common matters, put in the entire trust on the part of the interrogator, of the capacity of the party to answer affirmatively or negatively, and if the questioner believed in an irritable, testy state of feeling in his friend, how difficult would it be to fix assuredly upon their applicability or intelligent responsiveness?

Let a case be assumed in illustration. M. Maelzel, the ingenious Swiss mechanician, succeeded in constructing little automata, with certain vocal powers. They could utter the words *papa*, *maman*, with true accent and distinct articulation. Let us suppose that an artificial voice was limited to the mere words *yes* and *no*, and that these were uttered not alternately or regularly but accidentally, hap-hazard, as the turning of the wheels might open the reeds making one or the other sound. Let us imagine how the answers might fall to the kind of questions which would naturally and ordinarily be put to a person in Mr. Parish's condition, where all direct exchange of thoughts was restricted, and where a belief in his irascible temper was present, prompting at the slightest warning to a speedy change of subject.

Q. Mr. Parish, will you look over the plans for the proposed tomb at Greenwood? *A.* Yes.

Q. Here they are. You put your hand upon the very one I was anxious to show you. This is Upjohn's; does it suit you? *A.* Yes.

Q. Its cost will be $10,000. Isn't it too large—too *magnifique?* *A.* Yes (or No).

Q. Would you care to go to such a cost? *A.* Yes (or No.)

Q. Well, I thought that would be your opinion. Tell me, as I hold them up, which you will examine; Mr. Arnot's, Mr. Inigo Jones's, Mr. Charles Barry's? *A.* Yes.

Q. Ah! Barry's? Well that is a fine façade. Rather too ornate, isn't it? *A.* Yes (or No).

Q. What should you think of having the lower portion of granite or brown freestone, instead of white marble; wouldn't it give the idea of greater solidity, and improve the general character?

A. No (or Yes.)

Q. Well, perhaps your idea is the true one. And so on, *in extenso.* By following out any probable line of parlor or even business conversation, where *yes* or *no* is to be the only response, one may appreciate how easily he may be misled, by mere mechanical expressions of assent or dissent, into a firm belief that an intelligent interchange of views has been had.

Some ten or more years since, what were called *clairvoyant* experiments were in much vogue in some parts of the country. A person was "put in communication" with one of those gifted with the mesmeric power, and they started off on supposed tours to see various places and objects. The Clairvoyant noted the scenes about them, and the other party expressed assent or dissent to their agreement with what he had in his own imagination. Where there was a prepossession in favor of the new science, it was curious to note how the agreements of sentiment were sure to be prominent, while the want of any concordance was belittled and scarcely recognized. Indeed, in conformity with this principle of believing what is pleasant to us, it was

found that a person assuming to be a Clairvoyant, without seriously believing that he possessed any such gift, could carry the willing neophyte, with wonderful success, through scenes which left not a doubt in the mind of the latter that the Clairvoyant was going with him every step of the fancied route.

It is evident that the anxious friends of Mr. Parish were not insensible to the common experience of believing what it was pleasant to believe, and scarcely stopped to put tests to a friend whose yeas and nays half the time came in harmony with their own preferences, especially as, when they did not, the discrepancy could readily be passed over and deemed the result of impatience or irritability.

How different is the weight due to the testimony of a witness who, like Mr. Kernochan, carefully scrutinized the subject. He had known the testator, and that most thoroughly, from his youth to his final disease, and through it.

When actual and important interests required him to form a judgment, he left the pleasant conversation with which he hoped to give a momentary satisfaction to his old friend, if perchance he could comprehend a glimpse of its meaning, and soberly and carefully applied himself to the grave question which he was compelled to decide, i. e. whether he should receive a power of attorney under Mr. Parish's hand. He deviated from the natural and pleasant order of dealing with an afflicted man, subjected him to the simplest of all tests—that of putting the same question twice over—and was thereby assured that his friend had not mind sufficient to act for himself in any important business.

The testimony of Mr. Thomas Tileston strikes me as quite illustrative of the probable form of self-deception running through the opinions of most of the wit-

nesses, who give accounts of occasional interviews with Mr. Parish, and pronounce thereon judgments in favor of his entire mental soundness. I mean those who infer such a condition from Mr. Parish's supposed just application of the signs and sounds of assent or negation.

In accordance with a note previously sent, Mr. Tileston calls upon his old friend, to see if he can induce him to loan the Phenix Bank $200,000 of United States scrip, to be deposited with the State as a basis of its banking operations. Mr. Tileston opens the business of his interview, and "from the expression of his countenance and the interpretation given by Mrs. Parish, who sat directly by him," concludes that he was disposed for a negotiation. Mr. Tileston may have naturally enough mistaken the cheerful expression of his old friend's face, incidental to the associations which the last remnant of consciousness might leave unextinguished, for the less sentimental gratification connected with the idea of making a good bargain with the best of security. If the invalid's wife, the person presumptively most familiar with the interpretation of his pantomime and sounds, thus explained his meaning, it was most natural that Mr. Tileston should receive it without hesitancy, and, indeed, without reflection.

Mr. Parish raises two fingers, a gesture again and again described, throughout these volumes, as the most frequent and spontaneous of his movements. (I. f. 960, 967, 970, 982, 983, 991, *et passim.*) Mr. Tileston did not catch its meaning. He asks if Mr. Parish assents to the loan. Mr. Parish nods, the next of his most frequent and instinctive movements. Mrs. Parish suggests that he means that he will loan the scrip for a bonus of $2,000 *per annum.* Mr. Parish looks pleased, and nods again. "When he held up his *two* fingers,"

continues Mr. Tileston, "I then asked him if he meant the $2,000, to which he gave assent, by nodding his head in the affirmative."

Now, Mr. Tileston saw in these, which were the habitual, involuntary motions of this invalid, made over and over again, on all occasions, in the mere course of habit, as described by most of the witnesses who saw him, precise, intelligent responses to his questions, just the replies which a man of business, intent on driving a good bargain, would have made, and just such as a man of business on such an errand would have desired, and therefore anticipated.

Mr. Tileston, of course, received them without one doubt of their genuineness or authenticity. But his duty is not yet brought to a conclusion exactly to his mind, as he might naturally have anticipated from their perfect accordance at first. Mr. Parish seems uneasy, excited, dissatisfied; his temper rises, he puts his hand on Mr. Tileston, who is entirely at fault as to his meaning. Mrs. Parish, with all her skill and experience in detecting his wishes, does not at all comprehend what agitates and distresses him. She gets a slate and writes Mr. Tileston's proposition in full. As Mr. Parish's hearing is acute, it is difficult to see why he could better understand the offer thus presented. He shakes his head, and utters inarticulate sounds. Mr. Tileston is clear that Mr. Parish wants something other than what is offered. The writing on the slate is changed some five or six times, which certainly seems to give the man a very full opportunity of seeing the proposition under various shapes. (II. f. 569.) Mr. Parish evinces at each time the same unmeaning agitation; (II. f. 570;) and Mr. Tileston, giving up in despair, takes his leave.

What condition of the human mind, other than dementia, with the faintest traces of some delusion—

too indefinite and indistinct to be appreciated except as belonging to the general head of suspicion, or fear, or anger—will meet and satisfy such a collection of indications as this?

On a subsequent visit, Mr. Tileston is informed that the mystery had been solved in his absence. That Mr. Parish's meaning had been fully reached. He only wants "assurance doubly sure"—twice as sure as he deemed necessary in his days of unquestioned health of body and of mind. He demands the personal guaranty of each individual member of the Board of Directors! Mr. Tileston, who himself knows, and also imagines that Mr. Parish knows, the security offered for the loan to be as perfect as is attainable in any financial operation—that practically it is equal to a deposit of plate or bullion—is amazed at the demand! Naturally thinking that Mr. Parish might get some clearer insight into the affair by seeing it in writing, as Mrs. Parish had previously adopted that method, and failing to advert to the fact that Mr. Parish is dumb, not deaf, and can hear much better than he can see, he deliberately writes down his proposition. Mr. Parish manifests what Mr. Tileston considers a refusal; the "nin, nin, nin, was going all the time nearly," says the somewhat chagrined solicitor, as he leaves the invalid with a conviction (assuredly as he says so) that Mr. Parish understood him, and, no doubt, thinking that his long illness had made him sharper and more cautious in a bargain.

On the strength of these signs and gestures, Mr. Tileston arrives at the confident opinion that Mr. Parish "understood himself perfectly."

It is easy for those of us who have the entire record of Mr. Parish's condition, as presented in these volumes of testimony, and of which Mr. Tileston had but a small idea, to understand how, with really so

few and such insignificant grounds for forming any opinion at all, he should have arrived at the confident one which he declares. To those of us behind scenes, as those who have read the printed testimony now are, how transparent are alike the errors of Mr Tileston's judgment and the fallacious substructure on which he has placed it! Mr. Parish's pleasant aspect at the sight of an old friend whose face carried some glimpses of former days with it; his evident non-comprehension of all that was passing before him; his irritability in seeing the glimpse of some happy vision, however obscure, connected with an old friend's face driven from him by a slate thrust before his eyes, some half dozen times; his subsequent excitement; his seizing hold of Mr. Tileston in kindness, or in anger, or in fear; his angry look when Mr. Young appeared at the door, all present a congeries of symptoms admitting only of one explanation, one hypothesis. This poor sufferer, under two of the saddest forms of human disease, apoplexy and epilepsy, and their sequel of demency or mental dilapidation, had of all this scene before him no intelligent comprehension at all!

Another example of strong conclusions drawn from extremely limited observation, is shown in the testimony of Mr. Gibson—conclusions which pass into nothingness when viewed from another position. He calls on Mr. Parish, (II. f. 1865,) and presents the charitable claims of an asylum. Mr. Parish is soon noticed to be making the old spontaneous sign, a motion of holding up his two fingers. He gradually expands his hand from the two digits, which were considered as indicating a contribution of $200, until all five are lifted, indicating of course $500, which is accordingly subscribed, but which, for some unexplained reason, does not appear to have been paid.

Mr. Gibson, doubtless well pleased with so success-

ful a visit, noticed nothing peculiar about Mr. Parish's eyes, prominent as their diseased aspect was; *thinks* that it was his left hand which was raised; did not notice that any thing was the matter of either of his hands, (II. f. 1871;) but "from his observation of Mr. Parish and intercourse at that time," witness thought "his mental faculties were bright enough to understand the nature of my visit." No doubt he so thought. The contribution to his favorite object went up from two fingers to five, from $200 to $500. A man could scarcely question the mental soundness of a contributor, where his persuasive powers had "in fifteen minutes," raised a new subscriber from 0 to $200, and successively to $300, $400, and $500!

It does not seem to me necessary to analyze any more of the testimony of those who regard Mr. Parish as a sound man. In examining the minutes of the testimony of each in succession, I find no facts of a different type from those already considered; nothing which is substantiated by any tests; nothing where his signs of assent and negation would not fall under the same principles of explanation offered in relation to the statements of Major Delafield, Mr. Tileston, and the others named; nothing which offers any hint to reconcile the entire competency of mind which they deduce from the mere application of *yes* and *no* by him, with the great fact of his utter inability to express one idea in the manner used by all sane paralytic men in all times and places.

The testimony of the other class of witnesses who regarded Mr. Parish as essentially void of comprehension, requires no analysis, because theirs is not so much the expression of an *opinion*, where we are to see whether its basis of facts warrant it or not, as the statement of a *fact*, viz., *that they could not understand him, or as far as was perceptible to them make themselves comprehended*

by him. Many of this class of witnesses had a strong interest in recognizing his true condition. The testimony of his old partner, Mr. Kernochan, before alluded to, and his confidential clerk, Mr. Folsom, carry with them an element of great importance in this regard. Each was placed under circumstances requiring him to decide in reference to momentous acts involving pecuniary risk, and very probably involving reputation, whether he was, or was not, sound and competent to do business. They declined to act, because to their minds the evidence was adverse to his soundness. Mr. Kernochan, in his anxiety to decide correctly, instituted the simple test before alluded to, almost the only one referred to in the case, and refused to receive a power of attorney from one whom he believed to be no longer himself. And Mr. Folsom, abandoned as it were to his sole unaided judgment in a most embarrassing and responsible position, where those to whom he seemed to look at first for relief, refused even to advise in so delicate a matter—that of deciding whether he should deliver up the valuable papers of Mr. Parish, including his will—cannot bring himself to an affirmative belief in his soundness. How much must judgments arrived at under the pressure of such circumstances as surrounded these witnesses, overbalance the mere impressions or notions adopted without test or examination, by the great body of those who have spoken confidently of his perfect mental integrity!

The practical decisions of such men as the provision dealers, Case and Austin, have in them an element of earnest attention to Mr. Parish's manifestations, superior to the off-hand impressions of casual visitors, or of those who thought they transacted business with him, when some one claiming and exercising full authority, was at hand to decide and promptly to declare a reasonable import for every inarticulate response he made.

When, for example, Mr. Parish appeared to be transacting business to an extent of thousands of dollars, instead of that appertaining to the purchase of a few chickens, vegetables, or oysters, it must not be forgotten that Mrs. Parish was at his side, and that her explications of his decisions were naturally, and as a matter of course, accepted as his exact wishes. If Mr. Parish had visited Mr. Ward accompanied only by a nurse, would the notes and securities which he was examining, have been delivered on the mere strength of his imperfect sounds and gesticulations? Is it to be presumed that a person who cannot make a tradesman comprehend how many and which of his stock of fowls or oysters he would order, is equal to the purchase of securities in the stock market?

I have alluded at various times to the consequential fact, that tests might have been applied to substantiate impressions or to disperse them. I may be asked of what tests, what methods of verification would I have availed myself? This is very easily answered; many tests would at once occur to any earnest investigator. I will suppose one. At a suitable time and in a proper manner, some one of those who believed, as many of the witnesses profess to have done, that his mind was perfectly sound and intact, should have approached him with language essentially of this import: "Mr. Parish, I wish to have a full, frank conversation with you on a subject, which it may not be pleasant to you to have broached, as certainly it is painful for me to present, but feeling that you ought not to have any thing of moment in your affairs concealed from you, especially as I and your immediate friends are aware that you perfectly understand every thing, although you cannot speak to us; I will tell you frankly and fully what we all think you ought to be informed of; you know that you have directed several codicils to be

prepared and have executed them, which entirely change the purport of your will, while you have refused, and doubtless for good and sufficient reasons, to have the original will abrogated. You know that the first of these codicils, having been executed when you were very ill, was, by the advice of Mr. Lord, re-executed some months afterwards to avert danger of doubt or question respecting your capacity to execute it in the first instance. The subsequent codicils effect most essential changes, and as the whole matter is a good deal more involved by your giving to your wife large sums as gifts, which Mr. Lord says are of questionable validity; therefore, as things now stand, it is certain that your testamentary dispositions and these gifts to your wife will be contested by those who will think, from the tenor of your original will, which you prefer to stand uncancelled, that they have a better right to a part of your estate than she has to the whole.

"That will may be considered by some to be a natural disposition of your estate, and, consequently, there may be an endeavor to sustain it and give the go-by to the codicils. The event of lawsuits is proverbially uncertain, and of course you would be distressed to feel that it were a possible thing to dispossess your wife of the liberal provision which you have finally and maturely decided to give her. Now, to put all this beyond question, it is absolutely necessary for you to make a brief effort to counteract any chances of dispute.

"To do this, you must give us at this time, when your pressing illness is over, a more clear and definite expression of your wishes than we can reach in your ordinary way of merely assenting to or negativing what we offer, not, of course, for the satisfaction of your friends, who understand you well enough, but to demonstrate to all who care to inquire, that there is

not the slightest ground for disputing your will. It is very easy for you to do this; it is not necessary for you to go through the tiresome processes of endeavoring to write with your left hand on slate, paper, or blackboard, as persons who have had a shock of palsy often do, but to which we know you have a great aversion, still, if you would consent to practise two or three days, and thus write, it would be a conclusive thing.

"There is, however, an easier way. I will simply turn to an alphabet, which we can find in any primer, grammar, or dictionary, and point along to each letter until I come to the one which you need to make the first letter of the first word of what you would say. When I reach the one you want, raise your finger or touch my arm, and I will write it down. In an hour, yes, in half an hour, you will have dictated a communication which will leave nobody in doubt about your having clear ideas of all that has been done in relation to your estate. Just spell out some sentence to the effect that you desire these codicils to be regarded as the expression of your precise wishes concerning the disposition of your property. Any other views or wishes you may have, especially any which will explain your singular reluctance as to communicating with us otherwise than by saying 'yes' and 'no' to our questions, would render 'assurance doubly sure' as to your mental competency. Or, my dear friend, if you cannot follow my pointing to these letters of the alphabet, I will slowly call them over by their names, and when I reach the one wanted to make the word you would express, just press my hand and I will write it down. You see there cannot be much trouble in this, and how perfectly it will cut off the objections of any who think that you have not the full possession of your mind, and that you cannot make a valid will."

What man in his senses thus addressed, seeing before him, as he could not fail to do, a foreshadowing of what we are now engaged in, his beloved wife and his friends exposed to sore troubles from the question of competency, just as fully expected to be the inevitable subject of litigation in 1849, as it is known to be this moment, and realizing that his own infirmities would necessarily be dragged out before the world, could have resisted a call so reasonable, so just, so much a demand of honor and of duty! To comprehend the emergency of the future and to refuse meeting and counteracting it, where the effect would require so little power, mental or physical,—indeed, vastly less than he was exerting daily, as those who believe him sound aver, in buying notes, settling accounts, &c.,—would be contrary to the course of sane men as exhibited by universal experience. His failure to comprehend the appeal or to respond to it, would present an anomaly. It could only be explained on the idea that some huge delusion overshadowed his mind in relation to the disposition of his property, and that he preferred that all his plans and arrangements should "go by the board," rather than lift his hand to secure their accomplishment. If Mr. Parish were so keen and exacting as to demand from Mr. Tileston an order of securities more extortionate (using the word in no disrespectful sense) than any financial practice would justify, to protect a portion of his property, is it possible to believe that he would run the hazard of his whole estate being lost to his wishes, from an unwillingness to make a much slighter effort? The idea is preposterous.

It may be objected to the application of such a test as we have suggested, that there was an irritability about Mr. Parish, which would not permit a ready approach to him, on so delicate a topic. Perhaps so; and to meet such a difficulty, was just one of the purposes

for which the aid of an expert in mental disorders should have been invoked. The same order of skill which enables the oculist to get a clear view of a sensitive eye, which the ordinary practitioner cannot even open, would have been the means of a free access to Mr. Parish's mind in the manner suggested. If Mr. Parish were a rational man, it is absurd to suppose that during the six long years of his indisposition, no opportunity would have been afforded for a free interchange of views. No known condition of irritability, and few, very few forms of hypochondria have a continuous existence, without periods of relief or mitigation, and there is no evidence that Mr. Parish was habitually under any appearances either of irritability or hypochondria. He had occasionally fits of indefinite anger; he had paroxysms of weeping and sadness; but we more frequently see him externally placid, sometimes cheerful in expression.

Indeed, a grade of hypochondria which would produce all the strange effects referred to, would have entered into the domains of insanity.

These three volumes of testimony give us no account or hint, that any of the persons around Mr. Parish, from his attack in July, 1849, to his death, ever approached him to counsel him or confer with him on those subjects so momentous to him and to them. He never was once addressed, as it would seem these persons ought to have addressed a sound, rational, competent man, on the subject of his questionable testamentary dispositions. Yet there was not one amongst those around him who did not fully appreciate that a litigation was inevitable, unless avoided by some distinct proof of capacity being presented by Mr. Parish himself.

Under all these imperious demands for some such action, he was allowed to go down to his grave without

the suspicion ever being presented to him that his will would be contested; he was suffered to die—yet make no sign. Is not this fact pregnant with the conviction, that he was not looked upon by those around him as a sound, rational man?

There are still other tests, which might have been applied every day, without the possibility of giving offence, or the formality of any serious address, such as we have just supposed. For example, when Mr. Tileston was dumb with amazement that his whole Board of Bank Directors had been asked to give an individual guaranty in addition to the already abundant security proffered, had some one in the interest of those who doubted Mr. Parish's sanity been present and resorted to the experiment of asking Mr. Parish whether he also expected a deposit of bullion as collateral; what would have been the response? Who can say? Perhaps it would have been a nod, and in that event what would have been Mr. Tileston's view of Mr. Parish's soundness and capacity?

How many methods of verifying Mr. Parish's responses as intelligent and applicable, could have been devised! An absurd or amusing question to bring forth a smile and an unmistakable gesture—a question involving in its proper response both assent and dissent, and of course not be answered with either a nod or a shake; a reiteration of the same question with an interval, an interrogation in different phraseology, but carrying the same meaning, all would have helped to demonstrate whether the *yes* and the *no* were rationally applied.

Unfortunately, except in the trifling experiments of Messrs. Kernochan and Folsom, we have nothing which looks like bringing to a test the mere impressions of mental soundness received by many of those around him

In view of the eminent intelligence of many of those interested in Mr. Parish, and of those domiciliated with him, it is difficult to understand the reason for not subjecting him to such tests, if not for their own satisfaction, still to meet what they could not but foresee would be the first demand of those who subsequently to his decease would require to be satisfied of the exact truth. The omission, especially under the six years' opportunity for considering every thing connected with so great a contest as was impending, like the failure to call in a single expert in mental disorders, is to be explained by those in whose power it was to employ any method of investigation which the case might require. The inference is irresistible that such forms of proof were pretermitted because it was felt that their application would operate adversely to those who wished to uphold his acts, as those of a sound, responsible agent.

We have now arrived at a point in this inquiry, where we may lay aside all concern with the mere inferences and opinions of others, as well as with all the experiences and observations which are not in perfect harmony, and judge of Mr. Parish's condition in the light of conceded and virtually agreed facts. It is true that touching the material facts of his case, what his sounds and movements and looks, habits and infirmities were, there is as general an accordance of testimony as could be expected from witnesses at different standpoints. We can, therefore, bring him and the scenes of his daily life almost as clearly before us as if we had been present ourselves, and almost disassociated from any impressions traceable to this or that witness. To be sure, a witness may represent his expression to have been uniformly pleasant and cheerful, while others recollect him only as sad and melancholy; some never could perceive any thing like an articulate sound, capa-

ble of being expressed in words or letters in his vocal attempts; others recognized *yes* and *no*, and nothing more; some heard other short phrases, to the extent of two or three, in distinct articulation. Yet after reading over the great mass of testimony of so many persons, very many of them having had fair opportunities of observation, it is not likely that there will be any great degree of discordance in opinion as to his actual situation, among dispassionate and disinterested judges. The evidence will leave about the same general impression as to the facts.

Mr. Parish heard with readiness; his eyesight, so far as one eye was concerned, is represented by those around him to have been good; one side, in its muscular powers, had been unaffected by the shock which had annihilated all power in the other.

Those who regarded him as mentally sound, of course believed that he had a full and clear comprehension of all that he saw or heard. They are satisfied that there was not merely an abstract power of intelligence, but an active exercise of every function of the perceptions, the volition, and the judgment. He was equal in their opinion to the high responsibility of negotiating for the great sum of $200,000 in one mass, passing out of his hands; he was equal to trading for a house, deciding upon the repairs of his roof, and attending to the daily marketing of his household.

Yet with all this completeness of capacity, this integrity of intellectual powers, believed to exist by these witnesses, they all without exception agree that his power of communicating his thoughts to others, was singularly, nay, to an unprecedented and anomalous degree, limited and restricted. He could not articulate to any degree—he could not write with his affected hand. There was nothing peculiar or unusual in these defects among the victims of apoplectic disease. But

he could not indicate his wishes in any of many ways which are common to paralytics from apoplexy. He did not write with his left hand. He did not search out the words he wanted to indicate his meaning, in the dictionary. He did not place block-letters in the collocation required to express his wants, nor point to the letters of the alphabet. He did not raise his finger to or press the hand of a friend, who might call off the letters, when that one was reached which would make part of the word and the sentence required—a method so much in vogue of late years in certain mesmeric or *spiritualistic* experiments, that its facility and effectiveness are recognized all over the country. Unlike the great body of paralytics from apoplectic lesion of the brain, deprived of the use of the vocal organs and the right hand, Mr. Parish only communicated, assuming that he did communicate at all, by assenting or dissenting when propositions were made to him orally, or perhaps in a few cases presented to him in writing. Such assent or dissent was expressed in sounds and signs, interpreted by his friends then about him, all deeply interested in establishing his sanity. Such an indirect method was indeed of the most clumsy and uncertain nature, and it is without surprise that we read of the long, persevering, yet fruitless endeavors, to catch his meaning through it. At times, indeed, this was impracticable, and the attempt was, under the trials of those who held themselves out as interpreters of this strange language, necessarily adjourned to be resumed another day, or was abandoned in despair.

As before stated, a method so crude, imperfect, and unsatisfactory, was not acquiesced in without some struggles for a better. Abundant trials were made to induce him to write with his left hand, a process invariably, in my experience of many cases, performed with exceeding ease. This capacity is attainable with

so much readiness, in fact, that I confess myself surprised at the presentation of *fac-similes* and testimony on this point to the Surrogate. Paper, slate, and the black board were brought into use; copies were set of his name to fix his attention, but all in vain. It is stated that he sometimes went as far as "H. Par.," and that his name was more than once written by him. But though "coaxed" and "persuaded," this was the extent of his post-apoplectic success in chirography.

I perceive among the *fac-similes* various of his alleged signatures, made after the attack, differing considerably from each other, and greatly differing from his veritable *sign manual.* I am at a loss to explain them in the light of his proven incapacity to go so far. But as we find in the account of his most important signatures, *i. e.* his mark to one of the codicils, his counsel aided him by placing one of his hands on Mr. Parish's forearm and the other on his hand—positions in which a stuffed image could have been guided into some form of chirography—it is possible that *all* these dissimilar *fac-similes* resulted from such auxiliary manipulation, to meet his fancied wishes. We at least need more direct testimony and precise explanations, as to the *modus in quo* these signatures were made, before they can be received as palpable exceptions to the admitted fact, that for some reason or other he did not use his left or sound hand, as ordinary paralytics do. The utter obscurity of his early effort at chirography, received by his wife with so much emotion as being the word *Wills*, when it carries no such significance, indeed no significance at all to any unprejudiced observer, seems to warrant a demand for information more definite than can be found in the evidence, as to some of these very legible, if not characteristically individual specimens of his alleged autograph attached to various important documents.

I pass over these trifling attempts at handwriting, as of little moment in any scale of proofs touching capacity to use the pen—a capacity in fact stopping far short of the power daily exhibited by a vast majority of those almost vegetative forms of dementia, found dozing around any large receptacle of incurables under mental disease, and inquire how it could be, assuming his mental integrity, that his powers of communication should have been circumscribed and restricted to the narrow limit of signifying assent or dissent to some proposition presented to him, by some accepted sound and movement.

We can imagine no other than the following possible explanations why a sound, intelligent man, accidentally deprived of the use of his voice, and his right hand, should not take advantage of the methods commonly used by persons so afflicted, except the following:—

1. The possession of an irritable, impatient temper, contrary to his natural disposition, as proved throughout in this case, and ascribable to disease, which induced him to set himself against any attempts to write or communicate by letters or words, and refuse simply *because he would not*, without reasons, and disregardful of consequences present or future. He would not be pestered, and plagued, and teased into writing copies, or picking out children's play-things in the shape of block-letters,—he did not please to point or have others point to the letters of the alphabet or to words of the dictionary, nor, in fact, to resort to any other process, except that of saying *yes* or *no* to questions put to him by diligent guesses as to his possible desires.

The reply to any such explanation has already been suggested in part. There is proof that Mr. Parish manifested at times a vague, unexplained irritability, occasionally rising into a state of wild fury, as where he gathered a mob about him, when his wife was absent

a short time at the daguerreotypist's, and leading to repeated attempts to push and strike her, actions absolutely incompatible with the whole tenor of the man's life and being, as delineated by all who had known him from his youth to the fatal nineteenth of July, '49. But if the views of his friends concerning his state of temper after his attack, are correct, as doubtless they are, there was no such habitual condition as to make him recoil from any thing in the way of common every-day duties. He evinced, taking their account for the reality, no disposition to avoid a thousand duties, far less in importance, while equally as difficult, as certifying to his wishes respecting his estate, either in the manner intimated, or in some other method, so clearly as to leave no doubt as to his intentions or capacity. As before suggested, nothing but a continuous and unbroken series of monomaniacal ebullitions of temper in the one sole direction of making known his wishes, (which would of course include his testamentary dispositions,) can be conceived of to explain such incapacity to communicate. Such a monomania may be conceived of, but there is no evidence whatever of its presence in Mr. Parish's case. If it did exist, when these codicils received their cross-mark of authentication, they should of course be rejected.

2. That Mr. Parish was suffering under a peculiar, specific condition of mind, of which some few alleged specimens are found on record in the books, where it is assumed that the intellect is clear and normal, but where the connection between the thought and the oral or written symbol, through which it is conveyed to another mind, viz., spoken or written language, is broken off and lost. In such cases as described, the power of *receiving* ideas from others by language is not annihilated, but the capacity to *originate* speech in reply—the calling up the symbols and presenting them to others—is extinguished.

The first objection to this explanation of Mr. Parish's case is, that the alleged instances of loss of power to communicate by language, while capability of receiving through it continues, are not satisfactorily substantiated. The assumed cases are among the rarest of the rare in the described phenomena of psychology, and these few described or reported cases come in a very questionable shape. They are confined mostly, if not wholly, to the writers on phrenology, who are naturally anxious to bolster up their imaginative science by any thing which looks like proof that there is a specific organ of language, and that a portion of its functions might be obliterated, without influencing the remaining *organs*. It never has been my fortune to witness any approach to such a condition. I never have known any one who has seen any thing nearer to it than the inability to connect here and there a word or a name with the thing signified, an occasional sequel of lesion of the brain from apoplexy.

The second objection obtains in the certainty that Mr. Parish's mind was not intact and natural in all the rest of its operations. No person, it seems to me, can read over the whole detail of his actions and bring himself to the belief that there were not wide divergencies from soundness, irrespective of this one point of not communicating. His random searchings, in doors and out, his eating rapidly when an evacuation was impending, with no intelligent way of protecting himself, his wild and indefinite wrath at various times, his pushing his wife, &c., will all occur as proofs, at least of some mental infirmity in other directions, while the theory of this incapacity to originate language is, that it co-exists with entire mental integrity.

The third objection to this theory is, that if the witnesses who think him sound are to be believed, he *did originate* language. Dr. Delafield testifies to his

originating his signature "more than once," and such a signature is several times repeated in the *fac-similes;* he originated the word, a most important one, too, in its connection, "wills."

If such were the facts, the theory does not meet the case.

So far as I have examined these unproven and, (even as dubiously reported,) most rare cases of the *cas rare* of medical science, the incapacity to avail one's self of language, extends also to the non-use of its written or printed forms. These cases, it should be remarked, do not appear at all in the authoritative treatises, monographs, or systems of medical science. They are buried in the almost forgotten pages of periodicals devoted to phrenology, and in works devoted to the possible eccentricities of cerebral action.

If these patients are assumed to be capable of *receiving* written language, and their gist is in non-ability to *originate* alone, it is obvious that Mr. Parish did not fall at all within the description. If there be proof that there was any degree of comprehension at all—that his faculties were not under a complete dementia, there is evidence that he did comprehend something at least, of what was written and printed. The selection and reading of paragraphs in the newspapers, of the matter respecting the loan to Mr. Tileston, on the slate, and five or six times varied, of the broker's list of notes, of the footings in his bank deposit book, are all cases in point.

While I am ready to show that if such a condition as that referred to, is a reality at all, it did not accord with Mr. Parish's symptoms, and while I am willing to give respectful hearing to the rarest narratives of professional experience, I cannot, even by a possible implication from my silence, permit it to be supposed that I have a personal belief in any such state

of mind as that under consideration. I can scarcely conceive of a state in which the images of things should be brought distinctly to the invalid's mind, by means of words used by another, and yet he, the recipient, should have no capacity to conceive of the language by which the same or similar images could be depicted in return. Independently of its innate impossibility, it seems to me that the cases supposed to prove its existence are too few in number, and too closely connected with a fanciful theory, to be accepted as at all demonstrative of it.

3. As Mr. Parish was an aged, afflicted invalid, with trials and ailments enough to be spared any thing which was painful to him, it may be urged that so long as those around him had no doubt of his mental competency, it was not worth their while, nor consistent with due tenderness, to plague and harass him with attempts to make him express his mind in any manner other than that which he saw fit to adopt. If the reason was mere inertia, or prejudice, or indifference, it was kinder to indulge him, than to unduly nrge him to exertions in learning to write, &c.

To this I reply: the importance of his giving better evidence of his competency was felt and shown in the re-execution of his first codicil; repeated attempts *were* made, and that sometimes under what was evidently considerable irritation, with slate, paper, blackboard and block letters, to induce him to express himself; he was "coaxed" and "persuaded," again and again, but it was all in vain.

It is certain, that neither of these three suggestions gives us the clue to the cause of the non-communicability of his supposed wishes, through any one of the many convenient and certain conduits which were within his reach. It becomes necessary to consider what recognized condition of mental change will meet and cor-

respond with the indications which Mr. Parish presented, during the long and dreary history of his affliction and infirmity.

We think we see clearly a progressive tendency of disease in the brain, commencing with *vertigo* (and which might have been connected with hereditary predisposition) manifesting itself in the slighter attacks in Europe, and coming to a climax in the overwhelming stroke of apoplexy, in July, 1849. That there were other and more extensive pathological changes in the brain than such as pure, uncomplicated apoplexy would occasion, appears highly probable. Indeed, this is nearly certain, for he had from an early period in his disease, very frequent and severe paroxysms of epilepsy. These were so well marked, so perfectly in accordance with the universally recognized manifestations of this not uncommon malady, that one is entirely at a loss to understand why any question is made as to their character, or why the fits should be called "spasms," "spasmodic," or "epileptiform." They were plain, every-day epilepsy, nothing more, nothing less.

There is no evidence that he was subject to epilepsy prior to the decisive apoplectic fit. There is no reason to believe that the specific cerebral lesion, which accounts for apoplexy, and its consequent palsy, is ever the cause of or connected with epilepsy. The two diseases co-existing, it is highly probable that an augmenting cerebral disease, after inducing apoplexy, perhaps by increasing the circulation within the cranium, or weakening the strength of the vessels, or other incidental cause, went on to produce these epileptic fits.

I consider that epilepsy occurring as a sequence of apoplexy, would be a most probable ground of belief that extensive disease existed within the brain. And it is hardly necessary to observe, that while some occasional examples of lesion, especially of one hemisphere

of the brain, with no mental impairment, are reported, the general law is the reverse. *Where organic brain disease exists, the functions of the organs are impeded; the intellect is perverted or weakened.*

Even the continuance of epilepsy for a few years in its mildest and most uncomplicated forms, as most general experience amply shows, is not compatible with soundness of mind. The powers of observing, reflecting, comparing, judging, are enfeebled and lost, constituting progressively the various stages of dementia or imbecility—a form of mental impairment running through a wide scale of gradations, until it terminates in almost vegetative fatuity.

It is worthy of observation, as an important ground to infer the existence of extensive brain disease in Mr. Parish from a very early period, that the constant recurrence of these intense epileptic seizures did not seem, from the evidence of those who looked upon him as intelligent, to have affected his intelligence. He is represented as just the same from the first to the last.

If, as is most probable, his mind was reduced to a deep grade of dementia, ever after his first attack in July, 1849, and that the belief in his having mind was due to a misinterpretation of his sounds and motions, and a self-deception in thinking they meant something, this uniform dead level, this absence of change, under fits, sometimes as frequent as every ten days for many years, is accounted for. But on the assumption that he was perfectly himself, as several of the witnesses believe, from within a few weeks after the apoplexy to within a brief period of his death—undergoing in all that time no deterioration, certainly his case is anomalous and contrary to all ordinary experience.

To fix upon the degree of imbecility which existed, becomes an important element in deciding upon his competency to execute a valid testamentary instru-

ment. As he could neither speak, nor write, nor communicate, except in a method which, as we have shown, it was extremely difficult to say carried light from the mind within, and was most liable to induce mistake, it is scarcely practicable to say from what he actually did, how low the grade of mental power was. A patient who writes disconnected, incoherent jargon, indicates his mental change at once; one who has a power of ready muscular movement, may indicate his dementia by the absurdity and grotesqueness of his gesticulation, or he may show, by placing himself in positions of danger, that he is reduced below the point at which the instinct of self-preservation remains. To witness an intoxicated man dancing on a railway while the train was approaching, would leave no place for doubt as to his mental incapacity. But when an invalid is too much physically diseased to walk, when every effort at muscular motion is avoided, when, from some cause, he can neither speak, write, or communicate in any of the usual ways of such invalids, we must look at all we have—the mere passive indications, and see what they suggest or prove. As an expert in mental disorders, I am ready to stake any reputation I may have, in saying that I regard *the circumstances connected with Mr. Parish's involuntary, disregarded evacuations, as pathognomonic of his condition.* I say that the symptoms alone of a man eating his dinner with augmented rapidity, and fumbling at the same time at the opening of his pantaloons when an involuntary fæcal evacuation was about to occur, are precisely such as extremely demented persons constantly exhibit, and such as no others than such demented subjects ever would manifest. Were I *a priori* to lay down the most significant characteristic symptom of such dementedness in cases otherwise in doubt, I could devise nothing more graphic, or more certainly denoting that condition.

If demented, there can be no more sure proof that it was of that extreme grade which would allow little further deterioration. As there seems scarcely any evidence of change from first to last, it necessarily follows that, if demented, it was continuous and uninterrupted, as well as complete.

Such is my full belief. And under the whole evidence in the case, in my opinion he never had any comprehension, clear or obscure, sound or perverted, of what he was doing when these codicils were executed, and that they do not in any sense represent any rational act of his own.

LUTHER V. BELL.

Monument Square, Charlestown, Mass., *Sept.* 5, 1857.

P. S.—Since writing the above, I have been desired to look over an article in the September number of the *New York Journal of Medicine*, upon "the Intellectual Faculties in Cases of Apoplexy and Hemiplegia," avowedly addressed to the present suit, and to express my opinion as to its bearing and importance.

I have done so, with as much care and thoroughness as was in my power. Arriving at the conclusion that there is nothing in its facts or reasonings to disturb the views which I had reached, under the direct evidence as to Mr. Parish's mental condition, I have not thought it necessary or desirable to encumber these already extended commentaries by analyzing the foundations on which its conclusions are grounded.

In fact, I see no reason to differ from the writer in the conclusion to which he arrives, after a pains-taking exhumation of the multitudinous relics of European hospitals, that there are occasional examples where, after decided apoplexy, and sometimes with epilepsy

superadded, the patient may exhibit a good degree of mental power.

I should, however, dissent from the suggestion that a careful inquisition into the mental condition of such sufferers would generally develope a less degree of impairment, than at first view of the external indications might have been anticipated. On the contrary, I think that the physician is often amazed to find how deep and extensive is the dilapidation of the faculties, where the external manner, the effect of routinal habits and the self-deception of friends, had betrayed him into the feeling that his patient was escaping the common doom! But the spontaneous response to all the reasonings and illustrations of this paper, as to apoplectic patients having more intellectual power than has been generally supposed, is, that whether the fact be so or not, whether the world and the profession be mistaken or not on this head, it has no possible bearing on the case of Mr. Parish. For he failed throughout, under any form of ingenious intonation of the same sound, of sign-making or pantomime, of acting under the request of others, and the like methods employed by the various subjects of these cases as proofs of their intelligence, just as much as he did in the greater methods of speech, of writing, and of arranging the elementary letters, when offered in separate blocks, or pointing at them when in order before him. He is brought into no resemblance to or parallelism with these examples.

A second and a much more important point is most amply demonstrated in the cases adduced in this paper, and especially in the last sixteen, furnished in the recent experience of this vicinity. This is the fact, that however much the ordinary methods of communicating with others are cut off, the individual never fails, if he has ideas to convey, to transmit them in an intelli-

gent and satisfactory manner. He may be deprived of the use of speech, of the use of hands, so far as writing is concerned, and yet leave no doubt on the minds of those communicating with him that there is a perfect exchange of ideas.

The celebrated cases of Laura Bridgman and the Caswell boy, both, a while since, pupils of the Blind Asylum at Boston, both deaf-mutes and totally blind, illustrate very fully to how great a degree the machinery of intercommunication may be destroyed, and yet a perfect substitution be found, so far at least as the proofs of interchange of ideas are concerned.

It being then admitted, as this paper demonstrates, that if there be mind, it will not fail to give its outer manifestation, the converse of the proposition stands on the same basis. If there be no external exhibit of mind, there can be no reason to believe that the faculties are other than in a state of absolute dilapidation or are absent.

Bringing the case of Mr. Parish to this standard, is it not but too apparent that any power of expressing his ideas is not shown in all this seven years' history of his life, or rather of his existence? Can any other deduction be justified than the painful one that he gave no signs of mind *within*, because there was no mind?

L. V. B.

October, 1857.

OPINION

OF

I. RAY, M.D.,

PHYSICIAN TO THE BUTLER HOSPITAL FOR THE INSANE;
AUTHOR OF "THE MEDICAL JURISPRUDENCE
OF INSANITY."

OPINION OF DR. RAY.

The last Will and Testament and three Codicils of Henry Parish, deceased. New York: 1856, 1857. Three vols. 8vo., pp. 778, 772, 794.

Having examined the testimony contained in the three volumes, bearing the above title, I have arrived at the following conclusions, respecting the mental condition of the testator during the period which embraced the execution of the several codicils.

Henry Parish, a prosperous New York merchant, made his will in the year 1842, being then 54 years old. It is a long and elaborate instrument, distributing his property, supposed at that time to be worth about $750,000, among a considerable number of relatives, and indicating a nice balancing of their respective claims on his bounty. Having provided liberally for his wife, and distributed a large share of the estate among his kindred, he constitutes his brothers Daniel and James the residuary legatees. While in Europe, in 1843, he had what seems to have been an apoplectic attack, from which, however, he shortly recovered, and continued as well apparently as ever, both in body and mind, until the 19th of July, 1849, when he had another apoplectic attack, much more severe. In the course of about a fortnight, he was out of immediate

danger, but never recovered his ordinary condition. His right side (including the upper and lower limbs), was found to be paralyzed, the power of articulation was lost, and his natural elasticity and vigor were gone. These traits continued with little or no change until he died in 1856.

Within a year from the date of the attack, he became able to walk with a crutch, and the aid of another person, generally. It does not appear that he ever obtained any use of his right hand. Until within a few months of his death, he continued able to utter a few monosyllables, such as, "O dear," "yes," and "no," and a few inarticulate sounds. During this period he had several attacks of bodily illness, such as cholera morbus, inflammation of the lungs, abscess under the jaw, and intestinal inflammation.

The functions of the bladder and rectum were somewhat disturbed, a part of the time at least, and hence arose an increased frequency of evacuating these organs. Epileptic fits occurred within a few months of the apoplectic attack of July, 1849, at intervals varying from eight days to six months or more. When not laboring under a particular illness, he sat in his library, walked to market with his servant, or drove out in his carriage with his wife, or one of her brothers.

On the 29th of August, 1849, his cross in lieu of a signature was subscribed to a codicill to his will, which gave to his wife the house he then occupied, and a certain store and lot, all which had come into his possession, subsequently to the execution of the will, the house devised to his wife by the will having, in the mean time, gone out of his possession. This codicil was in like manner executed 17th of Decr., 1849.

On the 15th of September, 1853, a second codicil, was subscribed in like manner, which repeats the be-

quests of the first, and bequeathes to his wife some $350,000 worth of certain stocks and bonds. It also bequeathes $50,000 to various charitable institutions, and revokes the appointment of Daniel Parish as one of the executors of the will, as well as the bequest to him of $10,000 as executor.

On the 15th of June, 1854, a third codicil was made in like manner, which substitutes his wife in the place of Daniel and James Parish as residuary legatee.

These codicils are contested in the Surrogate's Court on the ground that, when they were made, the testator had not a testamentary capacity, and the question before us now is, what was the mental condition of Henry Parish during the period between the attack in 1849 and his death in 1856.

Paralysis, the sequel of apoplexy, is not invariably accompanied by very obvious mental impairment, but such is very frequently the case, especially after the attacks have been repeated once or twice. The occurrence of epilepsy in the present case, subsequently to the paralysis, is an additional indication of a high degree of morbid action in the brain. Under these circumstances, therefore, some degree of mental impairment might have been naturally expected.

The manifestations of mental impairment may not be so patent in a person deprived of the power of articulation, but they cannot easily be mistaken by those who are practically conversant with mental affections. Speech is but one means of expressing ideas and emotions. Signs, writing, actions, may be less perfect, but are none the less accurate or accessible. Deaf mutes are a standing exemplification of this fact. The mental condition of the testator, therefore, is to be ascertained from his acts and demeanor—by observing what he did, and by considering what he omitted to do.

For a few years previous to his attack in 1849, he had retired from business, except the investment of his income in real estate, bonds, mortgages, and stocks. There is nothing in this requiring much exercise of thought. The essential points in any transaction of this kind are few, easily accessible, and easily comprehended. If he had retained his mind unimpaired, it might have been reasonably expected, that he would continue to manage his affairs in this way, especially too as it had been a favorite occupation with him. If he were competent for any thing, he was for this. He could have indicated the securities he wished to purchase, by pointing them out in the papers or writing the name. If he wished for commercial paper, he had only to visit, or send for, a broker, and select from his stock such as he preferred. His dividends he might have collected for himself, and the little assistance he may have needed in any of these transactions, could have been furnished by his book-keeper or some friend. With his love of accumulation, and the gratification he derived from a good bargain, he never would have delegated, in any degree, the business of investing his income, even to his own wife. It appears, however, that within a year from the attack, he gave his wife a power of attorney for selling his securities, and that she usually collected his dividends. While it is impossible to say how far his opinion was consulted in the greater portion of his purchases, it is doubtful at best whether any single transaction was entirely the result of his own free will and unguided understanding. The usual practice of his wife was to drive into Wall street with him, and there, stopping before some broker's office, to send for one of the firm, who came to the carriage, and having ascertained how much money it was desired to invest, the broker offered various notes and stocks. It is said that as these were read to him, he expressed

what was regarded as his token of assent or dissent. Sometimes the business was finished at this interview, at other times—and this seems to have been the more common proceeding—a day or two was taken for consideration, when the result was communicated to the broker by Mrs. Parish. In the latter case we have no means of knowing how much Mr. Parish had to do with the result, and in the former, his agency, even if apparently independent, might really have been only the expression of her wishes. There was no reason why she should interpose, except to prevent him from accepting unsatisfactory paper—a contingency not likely to happen when dealing with such men as the Wards. If his sign or sound was thought to indicate a refusal of what he might as well have accepted, it was of no consequence, because there was enough more, equally good, from which a choice may be made. His assent or dissent, therefore, might have been expressed without the slightest reference to the quality of the paper offered, and yet the actual purchase been perfectly satisfactory.

In the loans, too, which were habitually made, it is impossible to discern his controlling agency. Dr. Markoe, who hired $10,000 of his funds, says he applied for the loan through Dr. Delafield, and never exchanged a word with Mr. Parish about it, except to thank him for the accommodation. Mr. Youngs, the builder, applied to him for loans of money, but always in the presence of Mrs. Parish, and the result, whatever it was, was always by her knowledge and consent. The same is true of the loans to Wiley. One of them, it seems, was larger than the amount of his funds in the bank; and when the fact was pointed out by his wife, he appeared to be much irritated, became "furiously mad," the witness said, "and rapped his hand as hard as he could on the table three or four times."

Mr. Tileston's account of his negotiation with him for the use of $200,000 worth of United States Scrip, besides exhibiting the agency of others in the matter, throws much light on the question of Mr. Parish's capacity. When asked on what terms he would allow the bank to place this stock in the hands of the Controller, he held up two fingers, which, Mrs. Parish said, meant $2,000 per annum. Then he began to manifest some uneasiness, and after repeated attempts to ascertain his meaning without success, Mr. Tileston was obliged to leave the transaction unfinished. Two or three days after, he was told by Mr. Delafield that Mr. Parish was not satisfied with the security, viz: the capital of the bank and the liability of the stockholders for $1,200,000 more, but required the individual security of the Directors. This Mr. T. declared to be out of the question, but he offered a mortgage of the bank building, appraised at $175,000. This also was declined, and further negotiation was abandoned. Now, if Mr. Parish understood the matter correctly, and the three witnesses present are quite sure that he did, the transaction shows very equivocal proof of any capacity for business; the more striking, because a few years before he had loaned the same stock for the same purpose, and security far less perfect than that now offered; and if Mr. Parish did not comprehend the matter, it shows that these witnesses entirely misunderstood the meaning of his signs and looks.

The exclusive agency of others in some of these investments is established by the testimony of Mr. Kernochan, who says that Mrs. Parish often consulted him about the "investments that were being made, or about to be made."

From all these transactions, I cannot resist the impression that Mr. Parish was no longer the same man. In all probability it was not his custom before his ill-

ness to consult his wife about investments, nor her custom to consult others.

The testimony also shows abundantly, that Mrs. Parish took a prominent part in many other matters of business, which men do not usually delegate to their wives. Mr. Kernochan speaks of their both coming to the office, and of Mr. Folsom's showing and explaining the books to Mrs. Parish. On these occasions, she commonly spoke to him, he says, about the renting of property and the collection of dividends.

In regard to much smaller matters in which he seemed to take a part, the indications of capacity are not very obvious. At one time in the summer of 1850, he was in the habit of accompanying his servant to market where he would point to various things, but no one could understand what he wanted, and if they guessed at his meaning, and sent the articles to his house, portions of them were sometimes returned as unsuitable. Austin, the poulterer, says, that on one occasion when various kinds of poultry and game were carried out to him in order that he might choose for himself, he only flourished his cane, and acted as if he were crazy. When accompanied by his wife in his visits to the market, it seems to have been the custom for her, finally, to order the dinner. Just before going to bed, he usually went to the kitchen, and ordered his breakfast, which order, as interpreted by the cook, was sometimes countermanded by his wife, and something more suitable for his condition substituted. The evidence of Sammis shows that his wife regarded him as not competent to purchase his own shoes, and Jones's testimony shows the same thing in relation to his clothes.

Again, it appears that during the whole period of his illness, he never played a game of whist, nor engaged in any other amusement. Now, when

we consider that he had of late years been passionately fond of whist, that it was often played by his wife and her friends in his presence, and if his mind were unimpaired, that he must have been ready to adopt any means of whiling away the tedious hours of confinement, it seems impossible to account for his abstinence from this game, on any theory, which supposes his mind to have been untouched by disease, or that its reduction could have been to any grade much above the lowest form of dementia. The knowledge of such games is among the last things that fade from the disordered mind, and in every hospital for the insane, patients, reduced to an almost vegetative existence, may be seen playing at games of checkers, or whist, if not as skilfully as in their best days, yet in compliance with all the rules of the game, and with more or less gratification.

Among the facts which seem to be relied on as proofs of the testator's mental soundness, I need notice only some of the principal. He recognized his old friends. He went through the ceremony of taking wine with his guests. To a person standing by him in the open air uncovered, he made the motion to put on his hat. He is said to have smiled at the time when a joke was uttered in his presence on one or two occasions. He would point to his head or other parts to indicate that he had pain there. When the affairs of a neighbor were spoken of, he is said to have pointed out of the window in the direction of that neighbor's house. He indicated a wish to change his clothes when soiled. One attendant says he had taught him to turn down the coverlet when he wanted the urinal. He listened with apparent attention to certain conversation, and manifested displeasure at interruption. A nurse says when the hour for taking medicine came around, he would point to the pill-box. These incidents, even if

correctly represented, indicate but a very small measure of mental capacity. They are not incompatible with any of those forms of dementia in which every idea of cause and effect, of the value of property, of the ties of consanguinity, and the relative claims of family and friends, has long since disappeared.

A few other facts of a higher character are mentioned in the evidence, which may seem to require a more particular notice. Youngs, the builder, says that when he read to him bills for work, Mr. Parish would sometimes stop him, and look inquiringly, whereupon, Youngs would ask if he wanted any explanation, when Mr. Parish would say "yes." [The force of this testimony is greatly weakened, if not entirely destroyed, by Youngs himself, who says that Mr. Parish made two sounds, uttered in quick repetition, "eh," "eh," "eh," and "nah," "nah," "nah," as he spells them, and which, he supposed, meant respectively yes and no.]

The same witness says, that after some repairs of the roof had been projected but not begun, Mr. Parish would call his attention to it whenever he saw him, "by pointing upwards with his first forefinger, though it might have been two sometimes, raising his hand as high as the lower part of his face, and at the same time looking upward." On being asked if he referred to the roof, "he would nod his head 'yes.'" This piece of testimony is open to the same objection as the last—the point on which its whole value depends, is a matter of guessing. Mr. Parish did not really say yes, but only something which, the witness supposed, meant yes; and even if Mr. Parish really intended to remind him that the roof needed repairing, the fact would only show a degree of intellect far below what is required for testamentary purposes.

Mr. Wiley says, that having borrowed some money of him, he handed him a promissory note; "after

looking at it, he made a motion to me, uttering a continued kind of sound, putting the note on his knee, and striking it with the ends of his fingers several times, as much as to call my attention to it, I thought; I took hold of the note then and looked at it, and I saw there had been omitted "interest from date." Another note, correctly written, being given him, he looked at it as before, "bowed his head several times," and put it into a satchel. Now, even if Mr. Wiley were perfectly correct in his conjectures respecting Mr. Parish's meaning, the fact would prove little. A man who, like Mr. Parish, had been giving or receiving such notes all his life, would readily observe so important an omission as that, if he observed any thing. It would show only one of those automatic movements of the mind, like those concerned in playing games, and implying no more exercise of thought.

Again, the same witness says, "he would sit quietly on the reading of the paper, and when the price of any particular stock had advanced from the previous day's sales, he appeared to take notice of it; would rise in his chair, make a motion with his hand, and sometimes nod his head, and sometimes shake his hand, always uttering a noise." The witness thought that Mr. Parish would make no such sound, gesture, or motion when any other subject was read about.

At the best, this fact would indicate only a little attention and memory, such as are generally witnessed in all but the lowest forms of dementia.

The Rev. Dr. Taylor states that he administered the Lord's Supper to him at least seventeen times during his illness. He says, "his manner was uniformly devout and humble. He seemed to be always very much impressed with the solemnity of the occasion." In place of the regular responses he "made a sound of acquiescence," and with his left hand he conveyed the bread and cup to his mouth.

All this displays but little intelligence. Like every person born and educated in a Christian land, he was well acquainted with the ordinances of religion, and in partaking of them, no more exercise of thought was required than in partaking of his regular meals.

The fact that during these six years he never entered a church, would seem to imply that the religious sentiment had little of that activity which might have been expected in a sane mind. The same witness states that after every service Mr. Parish gave him money from his own pocket; but this act, with the thousand others which are performed by the insane with the utmost correctness, show no exercise of the reasoning powers.

Fisher says, he would put the newspaper on his knee and point to the part he wished to have read. If this were so, it would only prove that he knew how to read, but nothing at all respecting his mental capacity.

Without noticing other acts of a similar character, many more of which appear in the evidence, let us see what inferences may be drawn from the manner in which he was managed by his family and attendants.

Wingrove's description of a morning's operations—of his motions with his hands and head, his "yanne, yanne, yanne," his searching his wife's wardrobe, though assured that it contained nothing belonging to him, his taking up his pantaloons one after another, putting them to his mouth, and repeating his customary sound, "yanne, yanne, yanne," of his visit to the market, where he would sit in a chair, and take the game handed him, and put it to his mouth as he did the pantaloons—strikingly illustrate that mental decrepitude so frequently the sequel of paralysis. Many other scenes in his domestic life tell the same story. Clark, the coachman, who was in his service during

the whole of his illness, says it was his custom to visit Mr. Parish in his room, every morning, between nine and ten o'clock. "I would go in," he says, "he would nod his head, a smile on his countenance, and then he would up one finger or two, and say, 'nea, nea,' or 'aney, aney,' to know how the horses were; then he would hold up the fingers again, just repeat it; then I would ask him if it was about feed; I would tell him the horses were very well, and I had plenty of feed; then I would say, 'Good-bye, Mr. Parish,' and then he would nod his head, a smile on his countenance, and say, 'Neay, neay, neay,' as much as to say, 'Good-bye;' I took it for that." Henry Delafield says that it was his custom to drive out with him on Sundays, and that when they drove down town, the carriage would stop near his stores in Wall, Pearl, Water, and Pine streets. "He would point at the building; then looking at me inquisitively, I would ask him if he wished any information about the building; he would say, yes; I would then tell him the building appeared to be in order and all occupied."

Mr. Wiley says, that when he visited him at Hell Gate, as he often did, "I would recount the business of the day in the city, such as I would think would be interesting to him." "How long a time," he was asked, "would you spend in talking with him?" "From two to five minutes," was the reply.

The only possible theory whereby all these indications of mental infirmity can be explained consistently with the supposition that his mind was unimpaired, is, that being unable to express his thoughts by means of speech, he necessarily *appeared* deficient in understanding. This theory receives but slender support from the facts in the case, and the general experience of men. Let the question be put to any one in the full possession of his faculties: 'Were you to be suddenly

deprived of the power of speaking, and of the use of your right hand, your mind remaining unaffected, do you suppose that, for six or seven years, you would continue as incapable of making known your thoughts as Mr. Parish was?' There certainly would be but one answer to that question. A tolerable facility of writing with the left hand could be obtained by a little practice, and in the mean time a dictionary, block letters, hieroglyphics, and maps would enable him to convey his meaning without fear of mistake. Every day would also witness an improvement in the use of signs and gestures. In every actual case of this description on record (*i. e.* mere loss of speech), so far as I know, the integrity of the mind was shown either by what the patient did, or by the ideas communicated in the manner here mentioned. In one, the patient, a collector of taxes, pursued his customary duties; in another, a blacksmith went to his shop, and gave directions to his workmen; in another an old gentleman continued to enjoy his game at whist as much as ever.* The facts that through this whole period of six years or more, Mr. Parish never wrote, unless, indeed, it might be that he wrote his own name, in a few instances; that his signs and motions were very few, and not one of them having an unmistakable meaning; and that notwithstanding his great desire, at times, to make known his wishes, he frequently failed, much to his own discomfort and irritation, render the conclusion unavoidable that his mind was reduced to a very low grade of dementia—that state in which its operations consist of a few feeble, disjointed efforts of perception and memory. His whole pantomime consisted

* For cases of this kind, see Pinel, *Sur l'Alienation*, 90; Ray, *Med. Jurisprud. of Insanity*, p. 163; Cooke *on Nervous Diseases*, p. 246, Boston ed., 1824; *Ed. Phrenological Journal*, II. 410; do., III. 316; IX. 17; IX. 471; X. 352.

of a nod and shake of the head, and a motion in which he raised his left hand, (with two fingers pointing upward and the rest closed on the palm,) towards his mouth, and finally rested his fingers upon his teeth. The nod and shake of the head were supposed by some to indicate assent and dissent, and his communication of ideas was confined entirely to making one of these motions in reply to any question whatever. Thus every thought or wish attributed to him originated with somebody else. This, of course, might not be objectionable, necessarily, provided there could be no doubt respecting the meaning of these motions, and also that the questions were clearly understood. Kernochan and Folsom, however, state that the same question repeated after a short interval, or in different terms, elicited both the nod and the shake. Jones, the tailor, makes a similar statement. In regard to the motion of the hand, Kernochan says that those about him supposed that he meant by it to invite suggestions, or gain information, but that he could never make that out with any certainty. In reply to Mr. Tileston's proposition to hire his U. S. stock, it seems that he made this motion, or something very like it, whereupon Mr. Tileston says, "I believed that he intended to convey the idea that he required $2000 per annum for the loan of the stock, which was confirmed by Mrs. Parish saying that that was exactly what he intended to convey." Gibson states that when he solicited from him a subscription to some charity, he made this motion, and that Mrs. Parish, who was present, immediately asked if he meant $200; to which he assented, bowed his head.

By some of the witnesses it was stated that he, at times, said, "O dear," and "yes," and "no," quite distinctly; but Kernochan, who visited him more or less frequently, during his whole illness, says that he

never heard him utter an articulate sound. He was in the habit of making a few inarticulate sounds, always repeating them rapidly, but as each witness expresses the sound in his own way, there is some doubt as to their number and identity. As written by them, they are "yanne, aney, yah, neay, yey, yet, nay, nan, nin, niah, nich," and some others. The first five or six were probably the same sounds differently rendered by different persons, and by some supposed to express assent.

This, certainly, was not always their meaning, for some of them were used when he was irritated; and at other times, the same sounds were uttered when he was under no excitement. Some of them were regarded by some of the witnesses as equivalents of yes or no, but they seem to have been used at times when he was supposed to have the power of uttering distinctly those words. It is certain that the nod and shake of the head were not always accompanied by any sound, articulate or inarticulate. The most probable conclusion is, that these inarticulate utterances had no meaning at all, but were merely ejaculatory sounds accompanying the feeling or emotion of the moment.

On the question of Mr. Parish's mental capacity, these signs and sounds are not without great significance. Considered under any possible aspect of the case, it is quite impossible to believe that a person in the full possession of his mind, though without the power of speech or of his right arm, would not, during the space of six or seven years, have acquired greater facility in the communication of his ideas.

The moral traits which made their appearance after the attack are also very significant in this connection. Some degree of irritability is not an uncommon sequel of paralysis, and does not necessarily imply intellectual

impairment. But in this case there was a kind of petulance and of anger, never exhibited in connection with soundness of mind. It was not merely excessive and frequent, but irrelevant and puerile. It was the anger of a child, and signified as plainly as any other fact in the case, that the manly, vigorous, and well balanced mind of Henry Parish had been reduced by the shock of disease, to a lower level than that of the feeblest child's. Dashing at and striking his wife, with other manifestations of childish displeasure, seem to have been a frequent incident, and many witnesses speak of his exhibiting irritation when the people about him failed to ascertain his wishes. The scene at Root's, where the violence of his movements attracted the attention of the passers by, and occasioned solely by his wife's not returning to the carriage the moment he expected her, was a striking illustration of this trait of disease. And so was his conduct with the box, as related by Dr. Markoe. On this occasion, after much questioning, which failed to elicit his wishes, his wife asked if he wished her to get a certain box, "and as soon as this suggestion was made to him, he assented to it most vehemently." Accordingly, the box was obtained from the bank and placed in his lap, but, says the Doctor, "he was very much displeased with something connected with the presentation: the box was not opened, and was conveyed back to the bank that same afternoon." Another witness present says he threw it upon the floor, and pushed it about with his hand. Is it possible that a person of sound mind, or any mind at all, would indulge in such conduct as this? Exceedingly anxious to obtain his will, and when, after much trouble, he has succeeded in getting it within his grasp, he dashes it upon the floor unopened, and cares for it no more!

It would appear that many persons of intelligence,

education, and knowledge of the world, who visited Mr. Parish more or less frequently, came to the conclusion that his mind was not materially impaired, that he understood any proposition made to him, and was capable of transacting business.

The fact may be easily explained without discrediting their honesty or sagacity. They arrived at their conclusion through a series of errors, both of fact and opinion, which any one might readily commit who had no practical knowledge of abnormal states of mind. To form a correct opinion in a case of doubtful sanity requires, in addition to this kind of knowledge, a mind free from bias, and full opportunities of observation. Few, if any, of the gentlemen who have borne testimony to the mental capacity of Mr. Parish, possessed these qualifications. They called on him, some for business, and some for old acquaintance sake. They were impressed, in the outset, with the idea that he labored under no other disability than the loss of the power of speech; and for the most of them, if they entertained any suspicion of the correctness of this impression, it would have been neither convenient nor proper, to test the measure of his capacity by appropriate means. He greeted them with a look of recognition, and perhaps a shake of the hand; they put to him questions respecting his health or a matter of business,—to these he replied by a motion of the head, to which they very naturally affix the same meaning that they would to a similar motion in any other person; any doubt on the point is removed at once by the suggestions of others, who are supposed to be familiar with all his signs and sounds, and perfectly to understand their meaning, and they go away quite satisfied that he understood every thing they said, and was capable of understanding a great deal more that was not said. The conversation, if such it

might be called, was confined, with one or two exceptions, to simple ordinary matters which required no exercise of thought, and which were within the comprehension of any degree of mind not unequivocally imbecile. Matters of some moment, requiring some effort of the reasoning powers, such as testamentary dispositions would imply, were never introduced.

It will be observed that these persons also committed the common mistake of supposing that if Mr. Parish understood the terms of a question, he necessarily understood its merits. This is not true of sane people always, while nothing is more common among the insane than expressions of assent or dissent in reply to propositions far beyond their comprehension. In every institution for the insane, may be found patients with the dress and deportment of gentlemen, going through all the little commonplaces of life with unexceptionable correctness, but ready to assent to any proposition, however absurd. Without the careful application of some test, most persons would conclude that these patients, who replied so promptly with a yes or no, to the questions asked them, really understood the subject talked about.

Thus, when asked to purchase the paper of a certain mercantile house, Mr. Parish might have recognized the name, estimated the sum correctly, and been conscious that a bargain was to be made, without having any clear idea of the standing of the house, the nature of the security, or the actual value of the paper.

In deciphering the meaning of such signs and sounds as Mr. Parish used, in his interviews with these gentlemen, it is obvious there would be much room for the play of the imagination. Even careful and cultivated minds might easily be led astray by some casual bias, and thus have mistaken their own fancies

for actual facts. Mr. Isaac H. Brown, in describing one of his interviews with him, says that he held up his hand with the two first fingers crossed, signifying, as he understood it, that he wished Mrs. Parish to give him (Brown) ten dollars. Mr. James Watson Webb says that, on meeting him once and referring to a former acquaintance abroad, he burst into tears, which he (Webb) supposed was produced by his inability to speak. The Rev. Dr. Taylor speaks of his "sensible and intelligent replies," and Major Delafield of his "complaining of his sight," and of "his eye beaming with intelligence." So difficult it is even for the most honest and sagacious, to refrain from mixing up their own inferences with the impressions that are made upon their senses.

During the period in question, Mr. Parish was attended by several physicians for some bodily ailment, and these gentlemen, though not professing to be particularly conversant with mental disease, and though at the time of their professional attendance they made no investigation of the point, were requested, on their examination before the Surrogate, to state their opinions respecting his mental condition. Their opinions are entitled to most respectful consideration, but can claim our assent only so far as they are supported by facts. Whether a certain person is sane or insane, imbecile or demented, is a question not to be decided by vague impressions, or a superficial observation, but by facts sufficiently numerous, definite, and clear, to admit of but one construction by those who are qualified by their studies and experience to appreciate them properly. Dr. Johnston, who visited him professionally from the beginning of the attack till the 27th August next, thought he understood the questions put to him about his ailments, but he declined to express any opinion respecting his mental

condition generally. Drs. Wilkes, Dubois, Markoe, and Delafield, who visited him more or less frequently (the two latter during the greater part of the period in question, and the two former during a few weeks only for affections of the eyes), concur in the opinion that his mind was unimpaired by his disease. The kind of facts which lead them to this result has been already indicated and examined. They adduce nothing stronger. Indeed, few of those facts were witnessed personally by any one of these gentlemen, and the only ground on which they can claim some confidence in their opinion must be that impression which was made upon them by signs or sounds that cannot well be imitated, or by facts which, while they might be well enough described, might be differently interpreted by others. It cannot be denied that this may be legitimate ground for an opinion. Facts which indicate little or nothing to one person may be pregnant with meaning to another. Still they should be facts, and admit of an accurate description, otherwise the opinions that are founded upon them cannot obtain the confidence of others. Such facts, though they be more significant to one and less to another, will at last be appreciated at their true value. Dr. Markoe states that at an early period he and Dr. Delafield recognized the importance of the question respecting Mr. Parish's mental condition, and that they had several consultations about it, and yet, in reply to the question, "did you ever make any examination of Mr. Parish, or apply any test to him, for the exclusive purpose of ascertaining the state of his mind," he says, "I never did in any shape or way." This is to be regretted. Many insane persons are free enough in their communications to render experiments and tests unnecessary, but Mr. Parish's case was just one of those where the spontaneous manifestations are so obscure and uncertain,

that nothing less than a course of systematic observations, managed expressly for this purpose, could have established the fact of his mental soundness against all the presumptive evidence to the contrary. The Dr. puts it forth as one of the grounds of his opinion, by implication, at least, that Mr. Parish "possessed the faculties of memory, perception, comparison, judgment, and in fine, all the ordinary faculties of the mind." What is meant exactly by this last phrase is not very obvious, but surely it cannot be denied that all the faculties here mentioned are manifested more or less in almost every form of mental derangement, including even imbecility and dementia. The fact proves nothing as to the soundness or strength of the mind. In any case of doubtful mental condition, the question at issue is, not whether the patient possesses these faculties, but whether they exist in their normal state. Dr. Delafield also states that he never applied a test expressly for the purpose of ascertaining Mr. Parish's mental condition, for the reasons that he had no doubt about it, and that every visit he made was a test. Such reasons are calculated to produce surprise rather than conviction. Dr. Delafield must be aware that in any scientific inquiry the object is to obtain a degree of proof satisfactory, not only to the inquirer himself, but to every one else. He is quite sure, no doubt, that Mr. Parish could read, but the fact is disputed by others, and yet how easily it might have been placed beyond the reach of contradiction by some simple test. We are therefore forced to conclude that the medical testimony, laboring as it does under these defects, cannot affect any position respecting Mr. Parish's mental condition, which the other testimony warrants us in taking.

Before closing my remarks on the medical testimony, I would advert to Dr. Markoe's explanation of Mr.

Parish's inability or unwillingness to learn to write, though perhaps there would be no danger of its passing for more than it is worth, even if left unnoticed altogether. It seems that within a few months after the attack, various trials were made to teach Mr. Parish to write with his left hand, but beyond perhaps writing his name wholly or partly a few times, nothing was accomplished. After a number of trials, estimated by Dr. Delafield at from five to twenty, he refused to proceed, and at no subsequent time were the trials resumed. This unwillingness to persevere in the attempt to obtain a means of communication, which would have been of inestimable value, is attributed by Dr. Markoe to "his early discouragement acting upon a somewhat peculiar temperament." This explains nothing. It only substitutes one difficulty for another. The proper question is, why a man like Mr. Parish, naturally of a strong will and much firmness, and supposed to be in full possession of his mind, on finding himself deprived of the power of speech, should become so easily discouraged in attempting to learn what was so necessary, not only to his interests but to his hourly convenience and comfort. Any one who will make the experiment will find that it is not impossible to write with the left hand, even at the first attempt, and that a little practice will enable him, as it has many others, to write with considerable facility. Another and an insuperable objection to Dr. Markoe's theory is, that it does not explain Mr. Parish's unwillingness to make up words by means of the separate letters of the alphabet on cards. This device was tried after the attempts to induce him to write were abandoned, but with no better success. He would not try to use them, and refused to have any thing to do with them. I find it impossible to account for his refusal to avail himself of so simple and easy a means of communication, upon

any theory which supposes him to have been able to read, and competent to the transaction of the very smallest matter of business. Unquestionably he was easily discouraged, and the cause of it is obvious enough. The same stroke which shattered his intellect, also deprived him of his firmness, his perseverance, his resolution, his manliness, and, in respect to all these qualities, reduced him to the condition of a child. This statement is confirmed on almost every page of the testimony. Every witness who saw much of his daily life, and some who saw but little of it, speak of his frequent tears, his petulance, his freaks of ill humor, and his gusts of passion, characterized in every instance, by extreme puerility. How much of this unwillingness or inability to learn is fairly attributable to discouragement, is not very obvious. It scarcely required the resolution of a child to construct words with the separate letters of the alphabet, and his refusal to make the attempt, admits of no other explanation than extreme insensibility to the importance of the object—an explanation utterly incompatible, of course, with the measure of understanding which is claimed for him.

Enough has been said, perhaps, to prove the mental impairment of Henry Parish during the latter years of his life, but it may be proper also to scrutinize the performance of those acts which are the subject of the present contest. Here, if any where, we ought to meet with unequivocal traits of a judgment and sagacity equal to the occasion—unquestionable proof that he fully understood both the terms and the merits of the various testamentary dispositions which he adopted. They might counterbalance many facts of an opposite character observed under other circumstances, if not turn the scales decidedly in his favor. The actual facts, however, are of the same complexion as the rest.

Mr. Lord, who prepared all these codicils and witnessed their subscription, says that in each instance he received the necessary instructions, not from Mr. Parish, but from another person deeply interested in their provisions, and present on the occasions when the various dispositions were discussed and adopted. Each particular provision was read aloud, and Mr. Parish was asked if he acknowledged that as a part of his will. He replied by nodding or shaking his head, implying thereby assent or dissent, and that provision was retained or rejected accordingly. These motions were accompanied by a sound represented as being, on the occasion of the second codicil, a pretty distinct yes or no, but on the occasion of the first, they were supposed to be only an attempt, scarcely successful, to imitate these words. By the second codicil he gave to his wife various stocks, most of them then standing in her name, having been purchased by the receipts from his property since his attack, and also a considerable sum to various charitable institutions. Considerable difficulty occurred, ostensibly, in perfecting the different arrangements according to his wishes. When desirous of making a communication, the usual practice was resorted to of mentioning interrogatively various things, and if the right one happened to be hit on, it received his assent, and was supposed to express his will. It was not until after several interviews and much ineffectual questioning, that this codicil was finally executed. Mr. Lord observing that this new arrangement of the property would place Mr. Daniel Parish in an awkward position, as one of the executors, he suggested the revocation of his appointment as executor, and of the legacy of $10,000 that accompanied it. This suggestion was adopted. At the re-execution of the first codicil, Mr. Lord was told by Mrs. Parish, that Mr. Parish wished to revoke the legacies

to his nephews and nieces, but he says (although Mr. Parish assented to it in the usual way) that he dissuaded her (Mrs. Parish) from pressing it, because it would fatigue and disturb him, and might as well be done at some other time. "In this he (Mr. Parish) acquiesced, with an expression rather of pain or regret." At the making of the third codicil, between three and four years after, the same suggestion was made again, and again Mr. Lord dissuaded, telling Mr. Parish "that would be harsh."

A careful examination of the circumstances connected with the preparation and execution of these codicils reveals some incidents strikingly incompatible with soundness of mind.

At the execution of the first codicil, and also at its re-execution a few months afterwards, neither the will nor a copy was before them. This, certainly, is not the way such things are usually managed, and it appears still more strange, when we bear in mind that either just before its execution, or between it and the re-execution, Mr. Parish was supposed, by those around him, to be exceedingly anxious to get possession of his will; yet when the box containing it was placed in his hands, from some unaccountable caprice it was thrown upon the floor, and returned to the bank unopened. Such conduct admits of no other explanation than that of insanity.

The fact, too, that it was left for Mr. Lord to suggest the revocation of the appointment of Daniel Parish as executor, shows a dulness of perception that could hardly have been expected from Henry Parish in the normal condition of his mind.

Then again, his course respecting the proposed revocation of the legacies to his nephews and nieces deserves attention. At the making of the first codicil he is, apparently, very desirous of revoking these legacies, but is easily diverted from his purpose. Four years

after, when he is engaged in making new dispositions of his property, (having in the mean time allowed it to pass over in silence,) he again reverts to it, and is again turned from it by Mr. Lord. Now all this a perfectly sane man might do, but in one of doubtful sanity, and surrounded by those whose interests were advanced by these contested changes in his testamentary dispositions, it certainly has a very suspicious appearance.

Again, it is not denied that every item in these contested codicils originated in the mind of some one else, though sanctioned and adopted ostensibly by him. This, too, might occur with a testator of unimpeachable soundness, but when we bear in mind that Mr. Parish was undeniably unable to communicate his wishes in regard to any person or subject, unless such person or subject were first mentioned to him, then it is obvious that these codicils might have only very partially expressed his will—namely, just so far only as others chose to help him to express it. True, this may not have vitiated these codicils necessarily, but, under all the circumstances of the case, it must weaken our confidence in his testamentary capacity.

It may be contended, perhaps, that even if a considerable amount of mental impairment were proved, he might still have retained mind enough to constitute what the law regards as a testamentary capacity. What this is exactly, has never been authoritatively decided, but it is a favorite doctrine of courts, that, in case of mental decrepitude, much less capacity is required to make a will than to make a contract, and that, in the exercise of the testamentary privilege, men's minds are not to be too accurately gauged. As the recognition of a pretty general fact, there can be no objection to the doctrine, but to apply it as a universal rule, without discrimination, would be unphilosophical and unjust.

In a case of admitted mental impairment, where the extent of that impairment is involved in doubt, certain other considerations should have place in deciding upon the validity of a testamentary act disputed on the ground of incapacity in the alleged testator.

Some wills require more capacity than some contracts; and many a man who might be able to sell houses or lands, with a tolerable understanding of the matter, would be quite incapable of making a proper and judicious distribution of a large estate among a considerable number of relatives, friends, and public institutions. So, too, the same understanding might be adequate to one description of will and not to another. A man having a small estate, and no relatives besides his wife and a single child to leave it to, might be safely trusted to indicate the proportions he would wish them to have, who would be utterly incompetent to devise his property under a wholly different state of circumstances, large and complicated possessions, and multitudes of relatives with very unequal claims on his bounty. The only practical principle is, sufficient capacity for the occasion, and that implies, in the testator, a memory strong enough to bring before the mind all the various persons who would naturally be remembered on such an occasion, judgment enough to discriminate fairly between their respective claims on his bounty, together with a knowledge of the value of property and the relations of numbers. And inasmuch as the moral sentiments are often weakened and perverted by the same disease that enfeebles the intellect, it is also required that his own proper intellectual discernment should appear by affirmative proofs, unaffected by the direct and special influences of others holding at the time a relation to the individual which made him dependent upon them for every thing, especially if such others are wholly or mainly interested in the contested act.

That Mr. Parish had not sufficient capacity for the occasion, according to the requirements above mentioned, is, I believe, abundantly shown by the facts in evidence, and already referred to concerning the testamentary acts and his ordinary mental manifestations.

The conclusions to which I have been led by a careful examination of the evidence in this case, may be summed up in the following propositions:

In consequence of the apoplectic attack of 1849, the power of speech was lost, and the mind was greatly impaired during the rest of his life.

This impairment was sufficient to render him incapable of any transaction requiring any exercise of thought.

The codicils in question disposed of large amounts of property in various ways, and required, in a much higher degree than can be supposed to have been present, the exercise of memory, judgment, and discretion; an appreciation of the numerous claims on his bounty, and a knowledge of numbers and quantities.

The mental powers here indicated were not possessed by Mr. Parish subsequent to the attack in July, 1849, and consequently these codicils, so far as they exhibit any of these powers, express, not the will of Mr. Parish, but the will of other persons, and are therefore invalid.

I. RAY.

Butler Hospital, Sept. 1857.

APPENDIX.

Dr. M'Cready on the Intellectual Faculties in Apoplexy and Hemiplegia.—New York Journal of Medicine, vol. III. p 203.

Dr. M'Cready thinks that intellectual impairment is not so frequently a sequel of paralysis and apoplexy as

it is generally supposed to be, and so quotes from various writers all their cases, (50 in one, 17 in another, 9 in another, 8 in another—84 in all,) to show that in two only were there unequivocal proofs of intellectual impairment. From these facts he concludes that "any impairment of mind as a direct consequence of apoplexy, after the patient has recovered from its primary effects, must be an exceptional occurrence," (p. 217.) Whether intellectual impairment is or is not a frequent result of apoplexy, is a question that has little practical bearing on Mr. Parish's case, so long as it is admitted that it does sometimes occur. It may be doubted, however, whether Dr. M'Cready's conclusion is strictly warranted by the cases he relates. They occurred, for the most part, in large hospitals, where hey were treated as subjects of disease, not of psychological investigation. No particular pains were taken to ascertain the mental condition, because that had very little to do with the cause or the cure. Considering that a casual visitor to a lunatic hospital would fail to discover the nature or extent of the mental disease in a large proportion of the patients, it could hardly be expected that the physician of a general hospital would be able, in the hour or two devoted to some hundred patients, to investigate very closely a trait of disease having no remedial importance. He comes to the bed of one recently stricken with apoplexy, and finds him either comatose or not. If not comatose, if he looks up when spoken to, answers questions about his feelings, asks for food, knows his friends, &c., the fact is noted by such expressions as these, "he retains his senses," "his intellect is perfect," "his understanding is unaffected," &c., &c. These expressions in the reports of these cases signify merely that the patient does not happen to be comatose,* and nothing can be

* If the medical gentlemen who reported these cases had been called

more unwarrantable than to suppose that they signify any thing more. Such an inference would be as well founded as that of an official inspector of a public institution in Massachusetts, who, in the course of an annual statutory visit to the McLean Asylum for the Insane at Somerville, with some other functionaries, ran up to the Governor, who was one of the party, exclaiming—"I have found a half a dozen people here unjustly confined. I have been talking with them, and they are no more insane, may it please your Excellency, than you or I."

Persons much conversant with mental diseases have abundant opportunities of seeing how fallacious are these bed-side observations respecting the actual condition of the mind. A case in point is now under the charge of the writer, and, as a specimen of a class, is worth noticing. H. B., aged 40, organist and music-teacher, was attacked with acute dementia in the spring of the present year. He continued, with little or no apparent change, till September, when he had a stroke of paralysis. After lying insensible and unconscious several hours, he began to come to himself, and, the next day, seemed to have regained his usual condition. He recognized every body, described his sensations, and conversed with his friends on family matters, pleasantly and appropriately. The lower extremities only were paralyzed, and the organs of speech were unaffected. Here the evidence that the mind was unimpaired was as much stronger than it was in any of Dr. M'Cready's cases, as spoken words are more reliable

to the stand as witnesses, and asked the direct question, as to *general mental capacity*, which was put to Dr. F. U. Johnston] in this case, they would, no doubt, in nearly every instance, have answered, as he did, "My opportunities [of observation] were very limited. * * He *appeared* to understand simple questions regarding his health. *I cannot say* that he might not have understood questions *equally simple* regarding other affairs." (vol. II. f. 413.)

than any interpretation of another's signs and gestures, and the casual observer would have said that the mind was all right, and yet it was obvious enough on a little investigation, that this man was incapable of making a will, or doing any other business correctly. He had no sense of time, and in the middle of a bright day would inquire whether it was morning or evening. The day of the week and of the month he never knew, though repeatedly told. One day he received a visit from his wife and her father, but the next day, though he remembered the visit of his wife, he denied that he had seen his father-in-law. When it was proposed that his clergyman should visit him, he assented very cordially, and the gentleman came. The next day the following colloquy occurred in his room:— "Well, Major, what did the priest say to you? "He wanted me to confess my sins, and I have no sins to confess. I never did any wrong." "What is his name?" "I don't know; he was a humbug; he was no priest." "Why, it was Father L." "No such thing, doctor; I know Father L. I played the organ in his church. He was a humbug." Though conscious that he was very ill, he never asked to see his family, and gave no directions about his affairs. Now, as cases are frequently observed and reported, this patient would probably have been represented as unimpaired in mind, *especially if his speech had been lost, and he had resorted to signs.*

This case presented another feature, after the paralytic attack, of some interest in the present inquiry. On many subjects he conversed, for a few moments, intelligently and pertinently; he had the air and demeanor of a gentleman, and he observed tolerably well the little proprieties of life. As far as the train of thought was mechanical, so to speak, he got on pretty well; but the moment any effort was needed, his mind

utterly failed. He would assent to any proposition, or dissent from it, according to the form of the question. For instance, "Major," (he had held a commission in the French army, under Louis Philippe,) "you were in the battle of Waterloo, I believe?" "O, yes, I was there." "In Jerome's division, in the assault on Hougoumont." "Yes, I was with Jerome." "But, how could that be, Major? The battle of Waterloo was fought before you were born. You could not have been there." "O, no, I was not there."

The mental impairment following paralysis, it must be borne in mind, consists, not in delusion or extravagance, but in a loss, greater or smaller, of the natural power of discerning the relations, of cause and effect, of perceiving remote relations and consequences, of comprehending ideas beyond the ordinary routine of thought, of estimating the value of property and the claims of different individuals. It is obvious enough that the casual inspection of a paralytic can throw no light on such a condition, if it be at all doubtful. Of all the cases quoted by Dr. M'Cready not one presents satisfactory evidence, or indeed any evidence at all, besides the bare assertion of the reporter, that the mind remained unimpaired. The case of the gentleman who wrote for the papers after his attack, might perhaps be an exception to this remark, did we know exactly his mental calibre before the attack.

Dr. M'Cready next relates a considerable number of cases, from which he draws the following conclusion: "In *all* the cases that have come to my knowledge, as well those recorded by others as those that are here given, where hemiplegia, with loss or perversion of the faculty of speech, has been unattended by coma or delirium, there is no evidence whatever that the intellect had been materially weakened. * * * So uniform is the testimony in these cases, that it

would seem as if the absence of speech in similar instances must be looked upon as *prima facie* evidence of clearness of understanding." Of course, the practical inference is, that Henry Parish's intellect was unaffected, because the attack was followed by inability to speak!!!

Dr. M'Cready relates eleven cases of paralysis without coma or delirium, characterized by loss of speech, in which, as he alleges, there was no intellectual impairment. The proofs of the latter fact are open to the objections already offered in regard to the cases quoted by hospital writers, but as these cases are related at some length by Dr. M'Cready and his friends, as if they possesed considerable importance in this connection, it may be well to see precisely what these proofs are

Of Pendergast, (p. 227,) it is said, "by this time, she had recovered her intelligence so as to indicate her wishes, and understand what is said to her." At a subsequent period, it is said, "her intellect is perfectly clear; she remembers my former care of her, and told me by signs when she saw me first; her memory is clear regarding all the events of her sickness, now of about twenty months' duration. She has concerted signs, so that by her fingers and otherwise, she makes those about her understand her meaning. When I did not comprehend her, she would call on the nurse or house-physician to interpret for her. * * * Her perception is quick, her memory of things entirely unclouded, and her judgment perfectly sound. * * * She devises a hundred gestures and attitudes to express her thoughts, so as to leave no doubt on the mind of any one who sees her, that her intellect is entirely free from any embarrassment." This woman could say no, and after many attempts and much urging, succeeded in writing her christian name. Now

the intellectual manifestations in this case, separated from the construction put upon them by the reporter, refer only to her wants, and those simple things which an idiot even would notice and comprehend. There is not offered the slightest proof that she retained her original power of comprehension; nor, perhaps, is there any proof to the contrary.*

Of Dr. Whiting's case, (p. 229,) it is said, "perception and understanding *seemed* unimpaired," but no proof whatever of the fact is given; on the contrary, the presumption is all the other way. True, it is also said that the only word he could utter, begum, he gave "a great variety of meanings to," "rendering clearly, through its aid, by change of intonation and of the force of utterance, together with the expression of his countenance, and the gestures of his right arm, recognition, inquiry, pain, anger, assent and dissent." All this remarkable power of pantomime may have existed —though it certainly looks as if the imagination of the reporter was responsible for the most of it—but it may well be doubted if it indicated much mind, when we read that he had "paroxysms of rage which increased in frequency," and that "his anger was particularly excited against his wife, and against a physician who approached his bedside, with whom he had previously had a quarrel," "and that he laughed violently at jests, and seemed indifferent at the announcement of the probably fatal issue of his disease."

In Dr. Goddard's case, (p. 229,) it is stated that his family and friends regarded his intellect as unimpaired; that "he can, not only comprehend questions of ordinary import, but those also involving business matters, and requiring the connection and association of ideas; in short, he can reason correctly and well."

* See in Dr. Watson's opinion, page 305, how completely Dr. M'Cready has mistaken the facts of this woman's case, and her actual ailments.

And yet the report speaks of his "inability to communicate his wants," and, in fact, it appears that all their inferences respecting his understanding were derived from his assent or dissent to questions—a very unreliable source of information. Here again we cannot help seeing the force of the reporter's imagination, which sees the power of reasoning correctly and well, in the simple replies of yes or no, to the reasoning of others.

In Dr. Parker's first case, it is said, "his intellect *seems* entirely unaffected," but no reason is given for this conclusion, except that he read and wrote.

In Dr. Parker's second case, (p. 230,) the same conclusion was drawn, but the patient could not write, and nothing is said about his signs or gestures.

In Dr. Ogden's case, (p. 231,) the evidence of any degree of understanding is stronger than in the cases already noticed, but the intellectual manifestations were confined to very simple matters. No attempt was made to ascertain the exact measure of his capacity.

In the Irishman's case, (p. 232,) it is stated that he "*seemed* to understand what was said to him," and subsequently, he told the reporter "that his mind was perfectly clear" on the morning of the attack, when he replied, to every question put to him, something about "circumstances."

In Kehoe's case, (p. 234,) the patient walked about the room, carrying his slate and pencil with him, and, by writing, asked and answered questions. This comprises every thing on the subject of his intellect.

In the case of the physician, (p. 235,) it appears that, during the first few days, he managed to communicate his thoughts, and, the report says, "was as sound in mind as ever in his life." No reason is

given for this opinion. Subsequently—third day from the attack—he tried to write, without success, and the next day, it is stated, "he *seemed* to recognize every person who came into the room."

On this, and the next preceding case, no comment is necessary. No ground for any opinion, one way or the other, is furnished in the report.

In Mr. K.'s case, (p. 238,) it is stated that, five weeks after the attack, "he could attend to his business as usual." Shortly after, his speech became more indistinct, but his family thought his mind perfectly clear. The reporter adds, "So far as an hour's examination would enable me to judge, through its imperfect modes of expression, it was far from being evident that it was not." In another passage, he admits that, "in such a case, there is great difficulty in ascertaining whether the mind is enfeebled or not, for the physician must first become acquainted with the patient's new language of gesture, expression of face, and attitude."

In Dr. White's case, (p. 243,) there was probably no appreciable mental impairment. The patient was able to speak, so as to be understood, after some familiarity with his manner of speaking, and thus he convinced the reporter that "his opinions were sound, and his memory remarkably accurate." He was also found to be clear in money matters.

These cases, thus scrutinized, certainly do not sustain the proposition of Dr. M'Cready, that the loss of speech, as a sequel of paralysis without coma or delirium, is *prima facie* evidence of clearness of understanding. And were the proofs of mental soundness in these cases as strong as he supposes them to be, the only legitimate conclusion which they would warrant would be—what nobody ever doubted—that paralysis is not *always* followed by mental impairment. Wheth-

er, in any given case, it is or is not so followed, is a question that can be settled only by a thorough and sagacious investigation of that case itself. And for this purpose there is needed some knowledge of mental infirmities, some skill in eliciting mental manifestations, much opportunity and patience, and, above all, a spirit of philosophical inquiry that discerns the proper object to be sought for, and shuns all hasty, superficial methods of obtaining it. As a contribution to our knowledge of apoplexy and paralysis, this paper of Dr. M'Cready is not without much value, but in regard to this particular point—the real extent of mental impairment produced by those diseases—it is worth little or nothing. He, no doubt, thinks that, in all those cases where, in his opinion, no mental impairment occurred, the evidence was perfectly satisfactory. Dr. M'Cready has a right to his opinion, but unless the evidence is satisfactory to others, they will claim the right to differ from him.

If any one is led by this paper to suppose that the medical profession have always made a great mistake in supposing that the mind was apt to suffer in paralytic attacks, let him refer to the reports of cases that have been adjudicated in courts of law, where the existence of mental impairment was established by the most reliable method of eliciting the truth—a judicial investigation. For this purpose, see Clark *vs.* Fisher, Paige, Chancery Rep. I. 171; King & Thwaits *vs.* Farley, Haggard, Eccles. Rep. I. 502; Marsh *vs.* Tyrrel, Haggard II. 84; Croft *vs.* Day, Curteis I. 782.

I. RAY.

Butler Hospital, October, 1857.

OPINION

OF

SIR H. HOLLAND, BART., M.D., F.R.S.

OPINION OF SIR HENRY HOLLAND, BART., M. D.

I have attentively read and considered the evidence in the Parish Case, down to the date of May 16, 1857 (page 159, Vol. III.), and with more particular care the medical evidence brought forward; being desirous, as far as possible, to limit myself to inferences drawn from this portion of it.* For the same reason I shall seek, in stating my opinion, to adhere as closely as I can, to a medical view of the points involved in the case.

The main point in question obviously is, the capacity of Mr. H. Parish, subsequently to his paralytic and other cerebral attacks, to comprehend, and transact such matters of business as those of the three codicils, added to his will?

In the absence of personal observation on the case, I do not think myself entitled to answer this question in any other way, than by giving my opinion as to his condition of mind during the period of time, as I derive it from the evidence before me.

Upon this evidence, carefully considered, I cannot hesitate in expressing my distinct belief, that Mr. Parish's habitual state, subsequently to the attack in July, 1849, was that of great mental imbecility—the effect of this attack succeeding to the slighter one in

* The *only* evidence bearing on the mental condition of Mr. Parish subsequent to page 157, vol. III., is that given by James Campbell, page 659, Stephen Sammis, page 568, and William J. Jones, page 576; three witnesses produced by the contestants. Their testimony is strongly *against* the testator's capacity.

January—of the epileptic fits which followed—and of the other less defined seizures, intimations of which appear in the evidence. Admitting fully the greater difficulty of judgment, depending on the loss of clear articulate speech in Mr. Parish's case, the reasons which impress me with this decided conviction are mainly the following:

Having in an active practice of forty years, seen and noted very many cases, in which successive paralytic and epileptic attacks were conjoined, I do not recollect *a single instance* amongst these, in which the intellect was not more or less impaired, and very seriously impaired, when the epileptic fits were as frequently repeated as in the present case. I find from the evidence of Dr. Delafield, (page 654, Vol. I.,) and other witnesses that these seizures were at one period (I believe in 1850 and 1851) as frequent as two, three or four times in the month, and occasionally of such severity, as to give immediate alarm for life. And though less frequent at a later period, they continued to recur at intervals till the time of his death. I may repeat that I have never known a case, approaching even to this, in which the intellect has not been seriously affected and impaired.

Though these seizures are generally in the evidence called "*spasms*" or "*convulsions*," I cannot for a moment doubt their being *epileptic* in the received medical understanding of the term. The descriptions given of them (particularly *in pp.* 512 *and* 711, *Vol. I., and p.* 497, *Vol. II.*) distinctly characterize them as such. The manner of the attack coming on—the aspect of the convulsions, and their duration—the biting of the tongue—and the state immediately ensuing on their cessation—are all marked proofs to this effect. And not less so, the fact stated by Dr. Delafield and other witnesses, that an increased irritability of mind oc-

curred for some time, even days, before such seizures, with removal of this augmented disorder in sequel to them. This is well known as a common character of epileptic cases.

The various disordered habits of the nervous system to which Mr. Parish is shown by the evidence to have been subject, (such as hysterical sobbing and weeping, sudden fits of irritability, odd gestures, sounds and tricks,) are precisely those which are common where the mind has been weakened by paralytic and epileptic attacks.

The mechanical character of his more general habits—even of many which are referred to by witnesses as proofs of intelligence—must here be noticed. Looking broadly at the evidence, I think it to be shown that the intelligence exercised by Mr. Parish himself, apart from all suggestion, had relation chiefly to physical wants and comforts, or to what had been, or had become, the diurnal habits of his life. With every allowance for the defective power of speech and bodily motion, it is obvious, as I think, that his habits and practices were to a great extent of the automatic kind; not going far beyond the acts common in the idiotic state, which in various respects they may closely resemble.

One of the strongest proofs of imbecility of mind, I consider to be his inability to convey his thoughts or feelings, even when most earnest to do so, save by two or three half-articulate sounds, or by gestures which are interpreted for him—with the further fact, that even these feeble means of communication were little varied or rather deteriorated than improved as time went on. Put the case in its simplest and most distinct form. If Mr. Parish's intellect had been unimpaired, what was there to prevent his finding a substitute for speech, by other modes of communication

with those around him? The use of the right hand, indeed, was also absent, but far greater difficulties than those are overcome, where the mind is not altered or enfeebled by disease. The mere want of power of articulate speech is not in itself alone a proof of want of intelligence; though doubtless when long continued, it concurs with other circumstances, in indicating some condition of cerebral disease. In simple cases of paralysis, speech is often lost for a time without any, or with very little notable impairment of mind. In a volume I published on "*Mental Physiology*," I have mentioned the case of a lady in whom the intellect was but slightly enfeebled, but whose whole speech was confined to the single monosyllable "*yes.*" I attended an eminent public man in this country, in whom, after a third attack of paralysis, the power of utterance was limited (and so continued until his death about a year afterwards) to a succession, often rapid and eager, of inarticulate and unintelligible sounds. In both these cases (though in the second the age was much more advanced and the mind more weakened) there was the effort successfully made, to open and use other ways of communication. And the same result I have seen in other instances more or less analogous to these.

I cannot but regard as singularly unsatisfactory that portion of the evidence which relates to the trials made to engage Mr. Parish to *write, put together letters*, or otherwise facilitate the expression of his feelings and wishes. I do not find proof any where that those means were adequately employed, considering the importance of the result sought for, and the same remark applies, as I think, to the means used to test his clear comprehension of things put before him. But even under this insufficiency of the trials made, I believe if his mind had not been already impaired and imbecile,

that he would certainly have availed himself of means derived from his own suggestions, for readier intercourse with those around him.

I have now stated the points which have mainly guided me in forming my judgment on Mr. Parish's case. Though I seek to limit myself as far as possible to a medical view of it, I cannot forbear stating an impression I derive from the *general tenor* of the evidence, that the witnesses at large and especially those who were in closest and longest contact with him, deal with the case, as if they felt there was imbecility of mind as well as body. I mention this impression, but do not dwell upon it, for the reasons of limitation I have before named.

I am better authorized, as a matter of medical opinion, in expressing my regrets that no *post-mortem examination* was made in this case. I am well aware of the difficulty in the present state of our knowledge, of substantiating any exact relation between mental disorders and organic lesions, or morbid appearances of the brain; but nevertheless such relations do exist and in many instances (and very especially in those where paralytic and epileptic seizures have occurred, and been frequently repeated) can distinctly be detected. In the present case, without venturing to affirm it, I should undoubtedly, as a result of experience, have expected to find some obvious condition of cerebral disease; seeing the repetition of the apoplectic and paralytic seizures, the frequency of the epileptic attacks, and the permanent loss of the power of speech.

HENRY HOLLAND, M.D.

Brook Street, London, *June* 26, 1857.

NOTES

IN REPLY TO AN ARTICLE ENTITLED

"THE PARISH WILL."

The manuscript volume, entitled "The Parish Will," which has been submitted to me for examination, I have read with as much care and attention, as time and the urgent duties of my profession would permit: and I am led, from my examination of its contents, to believe that its author has never made himself acquainted with the whole of the evidence which has been taken before the Surrogate, bearing upon the mental condition of Mr. Parish.

He has not attached his name to his performance, so as to authenticate it as the production of a physician, willing to hold himself responsible for the truth of the opinions which he advances. The work itself, however, affords sufficient evidence that its author is a well-educated physician. And from the frequent repetition of the initials, A. C., scattered through the notes which accompany this volume, I presume that the gentleman to whom these initials apply is the author of the work. In the course of my remarks, I shall, therefore, speak of him as such.

Dr. A. C. then has, in this volume, undertaken to pronounce upon the mental condition of Mr. Parish, while yet unacquainted with certain facts of importance in relation to Mr. Parish's case; and it is not surprising

that, in speaking of Mr. Parish's ailments, he has made assertions which, by the evidence, are shown to be incorrect. He argues upon premises which cannot be admitted; and he omits facts which can be supplied by the evidence, and which, when supplied, overthrow some of his most striking arguments and assumptions. Hence it is that his reasoning, however ingenious, and his professional acquirements, however great, have been brought to bear upon the question of Mr. Parish's mental competency, to very little purpose.

He begins by asserting that "The prominent features in Mr. P.'s case were hemiplegia, or loss of the power of motion in one side, and loss of speech. *For the first six years all other symptoms and physical manifestations seem to have been accidental, and unimportant* in considering the probable state of his intellectual faculties." (page 3.)

Now had Dr. A. C. carefully considered the evidence given by Dr. Delafield, he would have known that "all the other symptoms and physical manifestations" were *not* accidental, but were dependent upon the same cause as the hemiplegia and loss of speech. "He had a number of attacks," says Dr. Delafield, "distinct from the general disease, but the most frequent dependent upon its cause; or, in other words, dependent upon the condition of the brain which led to the disease." (*See the printed evidence*, v. I., f. 2070.) Again, had Dr. A. C. carefully examined the evidence given by Dr. Markoe, he would have found that the disease of the brain which induced the hemiplegia and loss of speech, was the controlling difficulty in Mr. Parish's case up to the very last hours of his existence. "The last sickness," says Dr. Markoe, "occupied in its invasion and threatenings several weeks: in its serious aspect, probably not more than a fortnight. The illness seemed to be congestion of the lungs, as a main feature: *it was a*

complicated disease, however, depending, I should say, as we supposed, upon the condition of the brain." (II. f. 1990, '1.)

Thus it is, that Dr. A. C., at the very onset, has fallen into error from his own inattention to the facts of the case. His effort is here evidently to prepare the reader for looking on the epileptic attacks to which Mr. Parish was subject—as something apart and accidental. For in the very next passage he refers to these. But the "physical manifestations," and "the numerous distinct attacks," to which Mr. Parish was subjected, were not all which Dr. A. C. should have associated with the organic disease of the brain, as *important* "in considering the probable state of his intellectual faculties." He should not have overlooked the very grave consideration that *from the moment of the severe attack in July*, 1849, *Mr. Parish was no longer intellectually or morally the same as formerly. He underwent a total change of character;* and, to use the very expressive words of Mr. Folsom, he never afterwards came to himself. For an account of the total change that overcame Mr. Parish in this respect, I must again refer Dr. A. C. to the printed evidence, or to the analysis of it, which, so far as it relates to what Mr. Parish was before the attack in contrast to what he was after it, I have given in the volume of *Medical Opinions upon the mental capacity of Mr. Parish*, (from page 13 to page 16, and from page 35 to page 40.)

"He had," says Dr. A. C., "a series of convulsions, but it does not appear that these exercised any unfavorable influence on his mental state." (p. 3.) Here again is an assumption. This point I have already discussed in the volume of *Opinions*, and it is only necessary here to say that these convulsions had an immediate dependence upon the organic disease of the brain

which lay at the foundation of all Mr. Parish's ailments; that the frequent recurrence of these convulsions, in their severer as well as in their mitigated forms and threatenings, was a continual source of aggravation to the cerebral disease which gave rise to them at first, and that in their reaction upon the brain they had a direct and permanently deleterious influence on the mental condition of Mr. Parish. In judging of the effect of these convulsions it will not do to compare Mr. Parish's condition during the erethism or excitement which usually preceded each attack with the state of quiescence which immediately succeeded it. This, however, is what Dr. A. C. would have us do, or what he would have us very erroneously infer from the evidence of Drs. Delafield and Markoe. The effects of the convulsions of which we are to judge, are those which are left permanently upon the individual, mentally, morally, physically; his gradual deterioration in proportion to the persistence and severity of the epilepsy as a continuous and ever present malady.

Again, on the subject of these convulsions, Dr. A. C. remarks: "If they depended on cerebral disease, it will be necessary to reason that that disease, whatever its nature, was *steadily* improving through several years, inasmuch as these convulsions grew less frequent, and finally may be said to have ceased." (Page 3.) In reply to this passage I would say, in the first place, that the periodical recurrences of convulsions were but the open manifestations of epilepsy as a continuous and persistent malady which showed itself at other times in other ways, as in vertigo, sudden flushing of the head and face, paroxysms of ungovernable ill temper, and nervous agitations and irregularities too varied and numerous to be conveniently specified. But I hold that the convulsions in their severer form cannot be truly said to have ceased in the case of Mr. Parish, ex-

cept with the cessation of vitality. They continued to manifest themselves at longer or shorter intervals up to the last year of his life, and during the long period of his ailment they usually recurred several times each year, but how frequently we have not the means of determining accurately. The medical evidence on this point is unsatisfactory and insufficient. Dr. Delafield states that he never saw Mr. Parish in a fit, and Dr. Markoe witnessed these fits but rarely—probably not more than four or five times. (*Evidence*, II., f. 2031, '33.) But we ascertain from Dr. Delafield that Mr. Parish was, ever after the severe attack of July, 1849, subject at irregular intervals to spasms, which made it "impossible to leave him alone, as a general rule." (I., f. 2091.) And from several of the nurses we ascertain that these fits were so common, and so much a matter of course, that they were managed by the inmates of the family without calling upon the physicians, except on occasions during which the paroxysms were of more than ordinary severity. And as for the *minor attacks*, the anomalous indications of nervous irregularities—those which, as a whole, the French medical writers have called "*le petit mal*," in contradistinction from the severer convulsive paroxysm which the same writers call "*le grand mal*"—they were throughout the whole period of Mr. Parish's ailments, of continual recurrence.

But in the second place, it is not correct to assume that, because the violent convulsions were less frequent in the last year or two of life, the organic disease of the brain upon which they depended was in progress of amelioration. Indeed it would be proper to infer the very reverse of this. The lengthening of the intervals between the paroxysms, whilst the other symptoms remained fixed and unmitigated, only shows that the brain had, from the protracted irritation to which it was subject, at length lost much of its reactive force,

and was now more rapidly than formerly yielding to the process of decay; that the irritating cause which might at the onset have been of limited extent within the skull had now become widely diffused, and had led to the general prostration of nervous force, and that this general prostration had replaced to some extent the irregular reactive force which gave character to the convulsive paroxysms. Among surgeons it is well known that a minute splinter of bone pressing upon the brain will excite convulsions; and that a large fragment of bone, when pressed inwards upon the brain, will give rise, not to convulsions, but to hemiplegia, stupor, and total loss of consciousness. The fact that the general convulsions had been of less frequent occurrence in the last year or two of Mr. Parish's life, has been noticed by Dr. Ranney, a gentleman more conversant with the anatomical appearances of the brain among those who die of mental alienation and of epilepsy than any other individual in this country; and he has very justly remarked upon it that "*convulsions of this character are usually less frequent as softening advances*, the pressure of the foreign substance becoming less immediate on portions of the brain yet retaining excitability. (*Opinions*, p. 396.)

Again—"Regarding the nature of this lesion, there will," says Dr. A. C., "probably be little difference of opinion beyond the question whether it was apoplexy or softening of a portion of the brain. That it was one or other of these diseases, will not admit of any rational argument," (meaning, I presume, any rational doubt.) "But," continues he, "it is important to remark here, that those who find it necessary to argue that the disease was softening of the brain, for the purpose of demonstrating the mental incapacity of Mr. Parish, substantially *abandon the medical probabilities, and, themselves, prejudge the question in favor of the intelligence*,

should it be shown that the disease was apoplexy" (p. 3–4). Here, it will be readily observed, Dr. A. C. has become very ingenious. He would limit the terms of the discussion as to the anatomical changes that had taken place in Mr. Parish's brain, and force us into the acknowledgment that there could have been but a single elementary form of disease present, and that form either simple softening, or simple apoplexy. But Dr. A. C. is sufficient of a sportsman to know that "In sight of any bird the fowler spreads his net in vain." We need not again argue this question—For, in the first place, we do not know what was the exact condition of Mr. Parish's brain. Had a *post-mortem* examination of it been made, we would have had something to rest upon in this matter. But this was not made; and it is folly to argue about a question which mere words can never determine. But judging from the symptoms to which the cerebral disorder gave rise—from their persistence, severity, and deplorable consequences—we are able to infer that the disease was as incurable as the symptoms to which it gave rise; that it must have been of an organic character; that the work of disorganization within the skull must have been wide-spread; and that is about all that we need at present admit in regard to it. But it is here proper to remind Dr. A. C. that, in assuming the disease of the brain to have been either apoplexy alone, or softening alone—he has run counter to the evidence of Dr. Delafield, who admits the probable coexistence of both of these forms of disease in connection even with other anatomical changes. For, in speaking of the intellectual dulness, which he admits to have been apparent towards the latter part of Mr. Parish's life, he says: "*The clot of blood which was probably left in the substance of the brain in his original attack, may have eventually so far*

involved a large portion of the brain by softening and otherwise as to produce the effect in question (I. f. 3304). But I have elsewhere shown that the changes of which Dr. Delafield here speaks must have occurred, if at all, at a much earlier period than he supposes, and in the strength of his "otherwise" we are at liberty to suggest that there might have existed in connection with the diseased changes above specified several other complications. As the growth of a tumor, chronic meningitis, thickening and irregular adhesions of the meninges, false membranes, induration of the cerebral substance, atrophy, sub-arachnoid effusions, or effusions of watery fluid in the ventricles, or several of these in combination, most of these and other changes which may be classed among the organic diseases of the brain, often do coexist with apoplexy and softening, and may even, where these latter do not exist, be mistaken for them. Within the past few weeks I have had occasion at a public meeting of the New York Pathological Society, to exhibit the brain of a man who had been under the professional care of Dr. Ranney; he had been an epileptic for about six years, hemiplegiac, speechless, and imbecile, but able to walk with the aid of a crutch, and his whole condition during his illness had more closely resembled that of Mr. Parish, than any other case I ever met with either in practice or in reading; and in this patient the disease of the brain, which had, during life, been ascribed to apoplexy, was found to be a tumor imbedded in, and growing from, the cortical substance on the anterior portion of the left hemisphere, which tumor had led to softening so extensive as to involve nearly the whole of the left hemisphere, but in the midst of which the white matter of the anterior and middle lobes had been to a considerable extent destroyed and replaced by a chronic abscess which was filled to distension with a greenish jelly-like purulent

deposit. There were traces of chronic inflammation and partial disorganization within the left ventricle most marked on the surface of the corpus striatum. The ventricles contained about two ounces of turbid watery fluid, and there was also considerable watery effusion beneath the arachnoid membrane in the immediate vicinity of the tumor. The optic nerves were both somewhat atrophied, the olfactory nerves were also wasted. The substance of the right hemisphere was slightly indurated, but in other aspects, so far as the eye and sense of touch could discover, it appeared to be uninvolved in the organic disturbances. Among the medical gentlemen who had an opportunity of witnessing these appearances, I may specify Dr. Alonzo Clark, Dr. Benjamin W. McCready, and Dr. Markoe.

Thus far our notes and comments have been confined to Dr. A. C.'s introductory observations. After completing these, he proceeds to his investigation somewhat more in detail, and under numerous distinct heads—throughout the whole of which it is hardly necessary to follow him. In his first of these separate sections, or divisions of his memoir, he treats of "*apoplexy*" in the abstract. The next is headed, "*The Attack and Disease*," in which, after a very unreliable sketch of Mr. Parish's ailments, he propounds his own theory of the case, saying, "*We have here an apoplexy in the second or middle degree of severity, and it will be difficult for human ingenuity to make more or less of it.*" (page 8.) In reply to this I would observe, in the first place, that human ingenuity *can* in *no one* way alter the facts, and that it is by the exercise of such ingenuity that Dr. A. C. has so much overshot the mark in his efforts to mask some of the broadest features of the case which he has undertaken to explain. But as to Dr. A. C.'s theory itself, I may remark, that it is not consistent with the evidence of the medical attendant, Dr.

Delafield, as I have already shown; and what is perhaps quite as much against it, this theory of "apoplexy in the middle degree of severity," is not sufficient to account for the phenomena of the case, either before the severe attack of July, 1849, or afterwards.

Dr. A. C.'s next section is devoted to "*the convulsions*," in which he undertakes to show that these, in the case of Mr. Parish, were not depending on softening of the brain. His ingenuity is here again remarkably conspicuous, but it is all thrown away. Nothing but the post-mortem examination could have settled that question. And the scraps of extracts from sundry authors, however much they may have convinced Dr. A. C., instead of throwing light upon the case, serve only to mystify it. He is pleased to think that, in order to show that Mr. Parish was incompetent, it is necessary to prove the existence of softening of the brain, and that the only way, too, of determining this, is by the character of the convulsions. Here are his words: "The hypothesis must rest then on the occurrence of the convulsions. It must be remembered, that these were not the *lateral* convulsions, which are enumerated among the symptoms of softening, but convulsions affecting both sides and all parts. No partial convulsions are known to have occurred at any time" (p. 12). Now, in reply to this, I would say, that it is not essential to softening of the brain, that the convulsions should be partial or one-sided. In Dr. Ranney's patient, whose brain I have already spoken of, the convulsions were of the usual type of ordinary epilepsy; and I hold it impossible to determine, in the majority of cases, without a post-mortem examination, the exact condition of the brain. The patient to whom I have alluded had general convulsions; had hemiplegia of the right side; was unable to speak beyond a few simple words, which he pronounced imperfectly; and his ordinary vocabulary

was limited to "aye," and "nye," and an occasional "Oh, dear." His sight was dim, but he could see sufficiently well to distinguish large letters. He often shed tears; he was at times docile and indifferent; at times, headstrong, passionate, and ill-natured. He was willing to try to write with his left hand, but he was unable to do so. He could be readily imposed upon by any person wishing to take advantage of his situation. He had been in this condition, with frequently recurring and violent convulsions, for nearly six years. He had not some of Mr. Parish's physical infirmities; he could control his evacuations. He was cleanly in his habits; he could wait upon himself, dress himself, and walk alone with the aid of his crutch; he could recognize what was doing and what was said by those about him, and give a proper response to any simple question; but he was nevertheless hopelessly demented; and, notwithstanding the fact which Dr. A. C. urges, in reference to partial or one-sided convulsions, as indicative of softening of the brain, the convulsions were of the ordinary epileptic type, and yet the great mass of the left hemisphere of the brain was found in a state of "softening." It is not necessary, in my own view of Mr. Parish's case, to determine whether he had or had not softening of the brain in either of its distinctive forms, as a simple and uncomplicated affection; and yet I may assert, that if any well informed reader will take the trouble to examine the extracts which Dr. A. C. in his notes has borrowed from Rostan, Andral, and other writers, and compare these with the established facts of Mr. Parish's case, he will be more ready to admit, that many of Mr. Parish's symptoms find easier explanation, on the supposition that they depended on softening of the brain, than upon what Dr. A. C. calls "apoplexy in the second or middle degree of severity." But in the second place, how has Dr. A. C. discovered that Mr. P. was not occasionally

subject to what he calls lateral convulsions? There is no denial of any such convulsions in the evidence. He had at times partial and incomplete attacks; and the medical witnesses, as I have already shown, were incompetent to give evidence as to the character and frequency of the attacks; so that there is quite as much reason for asserting that Mr. P. had these lateral convulsions, as that he had not; and I am disposed to think that circumstances are rather in favor than against the supposition that such attacks were of frequent occurrence.

Dr. A. C. is aware of the opinion of Rostan and other authors in regard to the permanently deleterious and destructive influence of softening of the brain upon the intellectual faculties; and he is aware, too, that these authors speak of *vertigo* among the characteristic symptoms of cerebral softening; and in order to maintain the opinion that Mr. Parish had not softening of the brain, he undertakes to tell us that Mr. Parish was not subject to vertigo or any of the usually accompaniments of vertigo. "He had neither headache nor vertigo, nor numbness, nor increased sensibility, with pain in the affected limbs; nor diminished sensibility, nor creeping sensation, nor twitchings, nor early contractions, nor convulsions confined to the affected side," etc. (page 11.) Now, if Dr. A. C. had made himself familiar with the evidence, he would have known that there are therein contained certain facts, which give the quietus to much that he has assumed in this fine passage; for it is well established that Mr. Parish was subject to vertigo and its concomitant symptoms for years before his violent attack, and had he been, after that attack, able to describe his feelings, there is little doubt that he would have made complaint of the same symptoms in a more aggravated form. I need not go over the statements of the several witnesses

who have alluded to the symptoms in question. A summary of them will be found in the volume of *Opinions*, page 10 to 13 and page 29 to 35, and what are not there enumerated, will be supplied from the evidence of Drs. Delafield and Markoe, from that of Mr. Kernochan, and from that of the nurses. The vertigo, the determination of blood to the head, the numbness or diminished sensibility, and the twitching, are expressly stated. The others are all either stated, or, from their usual association with the conditions of the case, we may infer that they were probably present. One of the nurses, in paring Mr. Parish's nails, states that he would at times draw blood without giving pain or awakening consciousness of suffering. As to the creeping sensations, these might readily have been overlooked in one unable to describe his feelings; and then we must remember how readily these may be mistaken for the signs of an intermittent; and that Mr. Parish was under treatment for what was supposed to be an intermittent, not long prior to his violent attack. (II. f. 1970.)

But to continue the citation: "His paralysis," says Dr. A. C., "did not gradually increase, involving part after part, and steadily increasing in the parts affected, till it arrived at its height; the progress of his disease was *not* essentially continuous and increasing; his general health did not steadily decline," (page 11.) Granting, for the sake of argument, that all this is correct, what then? "These," he tells us, "are the symptoms of chronic softening," (p. 12.) But what if the softening proceed, in a short space of time, a few days or weeks, to its stage of complete disorganization? What would then be the character of the symptoms, should the patient, as in the case of Mr. Parish, survive the attack? But these symptoms are not essential to chronic softening. In his quotations (Note A), he has already

learned, if he was not already aware of the fact, that in such cases, sometimes "the change is sudden; sometimes this change consists in simple hemiplegia." Again, if the remark that "the progress of his disease was *not* essentially continuous and increasing," is to apply to Mr. Parish, we may ask what does this signify? But was not his paralysis continuous? His loss of speech continuous? His epileptic tendency continuous? Were not all the symptoms that depended on the disease of the brain continuous? And if at any time the irritability of the brain was so exhausted and enfeebled that all these symptoms were not apparent, or on the increase every moment, it is only because they are never so in any chronic ailment whatsoever.

At page 12, Dr. A. C. says, "It becomes necessary to regard general convulsions in softening of the brain, as nothing less than a fatal symptom announcing the near approach of death." But I have already shown that this is not true in all cases. He may have met with something in Rostan to justify him in this remark. But the quotation from Rostan will not alter the facts. In the acute softening of the brain which occurs in hydrocephalus, or dropsy of the brain in children, the remark may apply with a good degree of force. But there are exceptions even here to all such general rules.

It is hardly worth while to comment upon what Dr. A. C. has stated in reference to the duration of chronic softening of the brain as an argument against its existence in Mr. Parish's case. In the case to which I have already alluded, which had been under the care of Dr. Ranney, the disease appears to have existed nearly six years, and in Mr. Parish a few months longer. In children and in persons of middle life, the disease may pursue a rapid course. But the *duration* of the disease is no argument against its *existence*. It is in this manner that Dr. A. C. resorts to every means in his

power to persuade us that Mr. Parish could not have had softening of the brain; and in closing this part of his argument, he says, "There is, then, in truth, not only no ground, but really no *apology* for the hypothesis, that the disease from which Mr. Parish suffered was softening of the brain" (p. 14). This conclusion may be all very satisfactory to the mind of Dr. A. C.; but it is, nevertheless, contrary to the evidence furnished by Dr. Delafield, as we have already shown. It is, after all, nothing more than a conjecture which may or may not be true; and, whether true or not, it is not established by any argument advanced by Dr. A. C.

His next succeeding sections are headed "*General Health*," "*Causes of the Convulsions*," "*Sequel of Mr. Parish's Disease*," "*The Intellect in Softening of the Brain.*" In certain passages of these we again discover that Dr. A. C. has not been thoroughly informed of all the circumstances of Mr. Parish's ailments; and his ever-watchful anxiety to persuade us that in Mr. Parish's case there was no softening of the brain; and having, as he appears to think, allayed all fear on this point, he ventures to be particular on another. For, on page 19, he actually gives the heading of a new section in the following terms:

"*The Disease was Apoplexy, in or near the Corpus Striatum of the Left Side.*"

Here he has in view the doctrine of the modern physiologists in reference to the functions of the sensory ganglia, and the recent work of Todd, who in his *Clinical Lectures* has attempted to apply this doctrine to the study of the diseases of the nervous system. But it might have been as well on the part of Dr. A. C. to speak with as much reserve as Dr. Todd himself has spoken. There is nothing gained by hardy guessing. There was a time when "the Divining Rod" was looked upon as a scientific instrument for discover-

ing hidden springs of water. But we have no divining rod for detecting those internal springs from which the hemorrhage escapes to give rise to a clot of blood within the skull. We may, as I have elsewhere stated, reach to something like conviction that the hemorrhage of an apoplexy is in one great division of the brain rather than in another. We may infer this from our knowledge of its relative frequency in one part rather than in another, and from our knowledge of the functions of the several parts; but, after all, we cannot be very definite, except by mere guess-work. But Dr. A. C., as already said, is very precise in fixing the exact locality of the hemorrhage, forgetting the words of Todd, while he is attempting to imitate him. For even Todd, in his guessing, found himself at fault when he came to confirm his opinions derived from symptoms with the actual appearances discovered after the death of the patient, and hence his following observations to his students: "In making the diagnosis in this case, you will remember that I spoke with confidence respecting the nature of the disease, but hesitatingly as to its *locality*. The various segments of the encephalon are so closely connected with each other by commissural and other fibres, that the parts in the immediate vicinity of the diseased part sympathize with it to a very great extent—almost as much as if they were themselves diseased. Hence it is very difficult, and sometimes impossible, to distinguish disease of the optic thalamus from disease of the corpus striatum, the intimate union of these two bodies causing a close sympathy between them: for this reason, lesion of the hemispheres, if situated close to the corpus striatum, gives rise to symptoms similar to those which would arise from disease of that body itself: and for the same reason, deep-seated lesion of the cerebellum causes the same symptoms as would be caused by lesion of one

side of the pons varolii. You will not wonder, then, that it is exceedingly difficult to diagnose the exact locality of cerebral lesions. Certain broad distinctions may be sufficiently accurately made with due attention to the general principles which physiology points out as to the functions of great subdivisions of the brain; but I look upon it as impossible to determine the position of cerebral lesions with that minuteness and accuracy with which we can discover the locality of lesions of other organs—the lungs, for instance."—(*Todd on the Nervous System.* Philadelphia reprint, page 45.)

Dr. A. C., in connection with the quotations on the subject of apoplexy which he embodies in Note I, makes some comments on the condition of the brain in this disease. Through these it is not necessary to follow him further than to observe, that an apoplectic effusion of blood is rarely a primary or simple lesion. When not the result of injury, it is almost invariably the sequel of pre-existing pathological changes; and, when the extravasation actually does take place, it almost invariably acts as a source of further disturbance, and nearly as much so to parts not in its immediate vicinity as to those in the midst of which we happen to discover it after death. Medical writers, for the sake of orderly description and study, may speak of simple elementary changes of any sort, as existing alone; but the bed-side practitioner knows the exact worth of such descriptions; and knows, too, the difference between talking of diagnosing a simple lesion, and actually making the diagnosis, clearly and unmistakably, in the midst of the complications that take place between the several forms of elementary lesions in cases as they present themselves to him in daily practice; and to no other part of the body will these remarks apply so properly as they do to the dis-

eases of the brain. Dr. A. C. tells us, under a particular heading, that "*Apoplectics who survive the immediate effects of the hemorrhage, most frequently die of some disease of the lungs.*" (Page 18 Addendum.) Apoplectics often die, too, of recurrences of the attack, and they may die of any other ailment. But death by disease of the lungs is a very common termination of all chronic maladies, not even excluding such as result from external injuries, and is as common in these as in apoplexy.

To follow Dr. A. C. through some of his other sections, would be to repeat much that has been already stated either in the present notes, or in the volume of *Opinions*. Thus, the section headed "*The Mental Effects not equal to the Paralysis*," will find explanation in the *Opinions*. And that headed "*Lateral Convulsions in Apoplexy, but not in Mr. Parish's Case*," has already been answered in these notes. But on this topic I may here remark, that Dr. A. C. appears to have associated lateral convulsions with permanent rigidity and contraction of muscles, and to give them the same pathological significance. But Todd, whom he cites at this point, appears to have reference to the latter changes, and not to convulsions. But the contraction and rigidity usually occur where the cerebral disease is deteriorating slowly towards disorganization of the brain, and occur before that disorganization has been completed. Where the disorganization comes on rapidly they are not among the usual attendants. The convulsions on one side simply indicate irritation on the opposite side of the brain, or its envelopes of that side.

In connection with Dr. A. C.'s section of "*articulation*," without repeating what has been stated on this subject in the *Opinions*, I must here remark that the tongue is not so essential to speech as is commonly sup-

posed. The vocal cords at the top of the larynx, the hard and soft palate, the nostrils, teeth, and lips, all perform their part in the act of speaking. The tongue may not merely be paralyzed, it may be actually cut out, and yet the individual who has an intelligent mind, and unimpaired body in other respects, may still speak well enough to be understood. "Such examples," says John Mason Good, "indeed, are not very common, but they seem to have occurred in all ages, and especially when it was the barbarous custom among the Turks, Goths, and other half-civilized nations to cut out the tongues of the unhappy wretches whom the chance of war had thrown into their hands as prisoners." "Hundreds of cases," says he, "might be quoted upon this subject," but he is contented to cite but three, one of these from the *Ephemerides Germanicæ*, one from the *Memoires de l'Academie des Sciences* for the year 1718, and one from the *Philosophical Transactions* between the years 1742 and 1747. The first was the case of a boy whose tongue had been destroyed by mortification, and who was able to talk after its separation. The second was that of a girl born without a tongue, but who had, nevertheless, learned to speak as easily and distinctly as if she had enjoyed the full benefit of that organ. The third was a young woman who in early life had lost her tongue and uvula, but still retained the power of speech, taste and deglutition. "In reality," says Good, "out of the twenty-four articulate sounds which fill up our common alphabet, the only two in which the tongue takes a distinct lead are *l* and *r*, though it is auxiliary to several others; but the guttural, or palatial, as *g*, *h*, *k*, *q*; the nasal, as *m* and *n*; the labial, as *b*, *p*, *f*, *v*, *w*; most of the dental, as *c*, *d*, *z*, together with all the vowels, which hold so large a space in our vocabularies, are but little indebted to its assistance. [*Good's Study of Medicine*,

Vol. 1, *pp.* 499–501; *Boston reprint*, 1826.] With these facts before us, it will not do to attribute Mr. Parish's inability to speak to paralysis of the tongue, or to say, as Dr. A. C. does in the heading of his next section, that the "*loss of articulation*" in Mr. Parish was "*a paralysis and not loss of memory*" (p. 29). But if we admit that the loss of articulation was in part a paralysis, we must also admit that this was a paralysis of the intellectual as well as of the physical powers. But we need not pursue a topic which has been already considered and disposed of in the *Opinions*.

At page 35, Dr. A. C. again returns to "*The Convulsions*," this time "as an element in the case apart from the cerebral lesion." He considers that the convulsions, in association with the apoplectic attack are usually not a direct, but only an indirect effect of the clot of blood, and that "It is the congestion of the parts that will affect the mind, if it becomes affected unfavorably" (p. 35). I need not dispute with him on this proposition. But, says he, "It is important to insist that the apoplexy does not complicate this question-so far was it advanced in the process of healing (when the convulsions first occurred); and that perhaps it had nothing to do with the convulsions" (p. 36). But here is an assumption again, and it is opposed to the evidence of Dr. Delafield. Again, he would have it, that the earliest convulsions in Mr. Parish's case, was in December, 1849, about five months after the severe attack in July of that year; whereas, this very attack in July, 1849, was complicated with convulsions; and, if we may believe the witness Fisher, the next attack was in September; that is, about the usual time for expecting the recurrence in ordinary cases of epilepsy, and from the earlier history of Mr. Parish's ailments, it is clear, that the epileptic tendency preceded the attack of July, 1849; and may have been the determining case, rather than the consequence, of

the apoplectic seizure and of all the deplorable consequences of that attack.

Dr. A. C., in this section, lays down a series of propositions, which, as they are neither very numerous nor wordy, we may stop to consider. In the first of these he says, "It is not the diminishing, but the augmenting paroxysms that overwhelm the mind" (p. 36). But his authorities are against him here, or at most, their opinions are contradictory. See what he has cited on the subject from Calmeil and Copeland. But, without regard to these authorities, we might remark that when the mind has been already overwhelmed by a disorganizing disease of the brain, it matters little whether the epileptic attacks which follow that event are diminishing or increasing.

The second proposition is, that "the direct influence of each paroxysm was not to depress, but to elevate and improve the vital energies and the mental condition," (p. 36). This is a proposition that no man in possession of his reason will believe. To reach it, Dr. A. C. must have given a forced and unjustifiable construction to the evidence of Drs. Delafield and Markoe. I have already in these notes alluded to this topic. But Dr. A. C. is not contented with this proposition as it stands. He propounds a decisive question upon it. "It is pertinent," he says, "to ask how many betterments of this kind work a deterioration?" (p. 36.) In reply, we need not hesitate to say, that every betterment of this kind works a deterioration.

His third proposition is, in reference to Mr. Parish, that "he could not have had over fifty paroxysms in the six years and three months, from their first occurrence to his death," (p. 36.) But the facts upon which this statement is founded are not in the evidence, and if they were, it is of very little consequence. A single paroxysm is sometimes enough to produce complete de-

mentia. The proof of this, Dr. A. C. might have discovered in Calmeil, whom he has so often taken occasion to quote, overlooking, to be sure, the particular passage to which I refer. On the very page from which Dr. A. C. has taken his quotations, Calmeil tells us, that in some cases the patient falls into dementia at the moment the epileptic seizure declares itself for the first time; and that mania frequently complicates epilepsy, but much less frequently than dementia. (*Dictionnaire de Médecine*, *tome* 12, *p.* 195.)

His fourth proposition is, that "there was no instance in which the paroxysms occurred twice in the same day," (p. 37.) But how does he know this? Not from the evidence. And if it were true, what would it amount to? Epileptic attacks rarely occur in this manner. The most frequent interval between them is about a month. It will, however, occasionally happen that at some of the recurring epochs the tendency to convulsions is somewhat persistent, so that the patient will pass out of one fit into another for several hours continuously—but this is after all but a single paroxysm. And there is no evidence showing that Mr. Parish was not occasionally thus affected. But whether he was or not, is a matter of no consequence, as regards the main facts of the case. In one instance it is proved he was so affected, 25th Feb., 1850.

His fifth proposition is, that "there was no *vertigo* so far as is known, even preceding the attacks, and none in the intervals of the attacks," (p. 37.) This statement is incorrect, as I have already shown.

His last proposition in the series is, that "Mr. Parish had the advantages which belong to those in whom epilepsy occurs in adult life," (p. 37.) But it is not easy to discover what these advantages are. Convulsions of an epileptic character, beginning in early life, are apt to disappear entirely about the period of adult age,

Those which first appear, after that epoch, are more persistent, and very rarely disappear. But at whatever age epilepsy first appears, where it persists, it sooner or later leads to deterioration of the intellect. The cases in which this effect is not observable, where the disease has continued for any great length of time, are rare, and are but the exceptions to the general rule. It may, however, be as Calmeil thinks, though I am not prepared to admit the remark as of any moment, or as intended by Calmeil to be accepted as a general rule, that "when the commencement of epilepsy takes place at advanced age, the loss of reason appears to be less frequent." It is this author, we must remember, who tells us that mental alienation is now and then induced by the epileptic seizure at its first onset.

Dr. C. at page 38 insinuates, and nothing more, that what he has all along been speaking of as epilepsy, may be considered of that milder type of disease which has been characterized as *epileptiform* (p. 38); but this point has been disposed of in the *Opinions*. I may, however, here add, that in the convulsive paroxysms Mr. Parish was frequently so profoundly comatose that he would bite his tongue (see the evidence of Dr. Delafield). Now if Dr. A. C. will refer to Todd, he will find that this able writer lays particular stress upon this as an unmistakable pathognomonic sign of true epilepsy. His expression is worthy of notice. In speaking of one of his cases, he says, "It seems most probable that this was an epileptic fit, which, however, wanted the very characteristic feature of biting the tongue. That symptom, however, is not always present; and, although when it occurs along with the other symptoms it may be regarded as pathognomonic of the epileptic fit, its absence by no means proves that the attack was not of the epileptic nature."—(*Todd on the Nervous System*; *page* 94.)

Having now paid our respects to the main points in this memoir, we may venture to overlook the remaining sections which are entitled as follows: "*Weeping*," "*Reflex Action*," "*Emotional Action*," "*The Sphincters*," "*Writing, Block Letters, &c.*," "*Separate Letters*," "*Irritability*," "*The Effects of Apoplexy on the Mind, Opinions and Cases.*" Most of the topics introduced in these sections have already been considered, either in what has already been stated among these notes, or in the volume of *Opinions*. Let us then hasten to Dr. A. C.'s concluding observations, where he tells us that "In view of the sources of error already pointed out, appeal must be taken from the expressed opinions of systematic writers to the recorded cases." Here he is in the track of Dr. McCready. He would repudiate authority when against him, though making liberal use of that same authority where he thinks it may tell in favor of his own opinions; and, in repudiating systematic writers, he would undertake to reason upon their facts. But to proceed. Speaking of the recorded cases, he says, "These must be generalized; and the conclusions which they force upon us, when the number of cases is sufficiently large, must be final." But what would he consider a number sufficiently large? The libraries of the city have been ransacked for the purpose of discovering such cases. The librarian of the N. Y. Hospital tells me that he has himself, to aid in this investigation, overhauled hundreds of volumes; and, after all, neither Dr. A. C. nor Dr. McCready has been able to adduce a single author who, when his opinions are fairly stated, can be named in support of the proposition that apoplexy does not tend to deterioration of the mental faculties, or that epilepsy does not tend to deterioration of the mental faculties; or that organic disease of the brain, from whatever cause, does not tend to deterioration of

the mental faculties; nor has either of these gentlemen been able to adduce a single instance of any patient from the records of the profession, in which the combination of ailments and physical disabilities which existed in Mr. Parish, is shown to have been compatible with mental competency or a discriminating judgment. But Dr. A. C. has faith in his appeal from authorities to the collectors and compilers from authorities—to those who make papers from the facts of other writers. He says on this point that "Of this character is the paper of Dr. McCready, published in the July number of the New York Journal of Medicine, 1857. His researches render it in the highest degree probable that a person in the condition which Mr. Parish presented for more than six years between his attack and his death, would be of sound and disposing mind and memory" (p. 75). Well, I have already paid my respects to this paper of Dr. McCready's, and to the cases contributed by Dr. Alonzo Clark to that paper; and, of its value as a means of determining the mental competency of Mr. Parish, I am quite willing that, without a further word of comment on the subject, the world should judge.

Before concluding this paper it is proper to observe that I have looked over the two other documents which were placed in my hands in connection with the papers which I have ascribed to Dr. A. C., and that I find nothing in them influencing my judgment in any way. The study of Mr. Parish's case, in order to reach any rational and correct conclusion upon it, should be taken up as a study apart, as a collection of associated facts, or a series of appearances and circumstances, to be judged of by their own bearing. This, indeed, is the only way to arrive at the truth in any case; for in medicine, though for convenience we have general descriptions of diseases to which we may refer for our

practical guidance, yet every instance of disease, every individual case, has its own peculiarities; and it is only by the close investigation of these that the cautious observer can hope to arrive at any reliable conclusion concerning it.

It is hardly necessary to add that the cases which are brought together in the several papers which I have now referred to are from medical works of every degree of merit; some of them are from the writings of non-professional men; some of them are even from eulogies and funeral orations utterly unworthy of reliance. Some of the cases themselves are familiarly known among the curiosities of medical literature, which tell but feebly upon the judgment of the unimaginative practitioner, and some of them—as is often observable among the cases which are presented to the public in our medical periodicals, and indeed in more ambitious works—may have been imperfectly and incorrectly reported. Very few of them have any direct bearing upon the case of Mr. Parish.

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